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JOINT MEETING OF THE  
ATLANTIC HIGHLY MIGRATORY SPECIES  
AND BILL FISH ADVISORY PANELS

JOINT MEETING

April 1-3, 2002

at

Holiday Inn

Silver Springs, Maryland

WEDNESDAY, APRIL 3, 2002

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INTRODUCTIONS AND ANNOUNCEMENTS

MODERATOR CHRISTOPHER ROGERS: ... we make sure we get enough shuttles here at the proper time to get you to the airport as necessary. So, the sign-up sheet is in the other room and we'll turn it in or make the calls to the shuttle companies by around noon. So, what do we have a break scheduled for 10:30, 11:00? Where is my agenda? All right. So, make sure that by break that you sign up for a shuttle, if you need one.

I've also been informed that the hotel is not contemplating honoring tax exempt certificates. So, if they give you a hard time, just make sure that you include the tax on your vouchers. Submit a voucher form. On the back table there or I thought you folks got some in your packets. But Othell is around here and she may be in the back room, but maybe work with Othell on that. Sometimes hotels will honor tax exempt certificates. Otherwise, just make sure you include the tax separately on your voucher form, and not to include it in the lodging. The lodging is in a separate accounting code category.

1           You can turn them in here if you have  
2           all the receipts, so to speak, that you would need.  
3           You need receipts for the lodging, shuttle,  
4           something like that. If you know the mileage and  
5           you drove and you have all the hotel receipts, then  
6           you can turn it in now. Othell --

7           UNIDENTIFIED: Chris, I have a  
8           question. Are we going to implement this government  
9           cost reduction initiative at each meeting from now  
10          on?

11          MODERATOR CHRISTOPHER ROGERS: Yes,  
12          indeed. Yes, indeed. But only for one panel  
13          member, selected --

14          UNIDENTIFIED: I don't know how many  
15          panel members are aware of this. You ought to warn  
16          them beforehand to maybe keep the weak away, but  
17          this says -- this is from Department of Commerce.  
18          It says this memorandum is to inform you that you've  
19          been selected by the White House Government Cost  
20          Reduction Initiative Enforcement Committee to  
21          contribute to the reduction in government meeting  
22          operating costs. Pursuant to CFR 109 Section 42B,  
23          Paragraphs 11 through 18, the NOAA will recall your  
24          travel authorization for the current Advisory Panel

1 meeting. This action is being taken under the  
2 President's proclamation cost reduction initiative  
3 dated August 15th, 2001, so forth and so on.

4 Apparently they pick one member from  
5 each committee meeting. So, maybe that will be Pete  
6 next time. This memo is dated April the 1st.

7 MODERATOR CHRISTOPHER ROGERS: We had  
8 to do something for April 1st, and you came to mind  
9 when we decided who to pull that one on. Okay.  
10 Just one point of clarification I was requested to  
11 make. A comment was made last night about a vote on  
12 a spotter plane issue at last year's meeting. We  
13 did discuss spotter planes at last year's meeting,  
14 but the vote was actually taken at the Rhode Island  
15 meeting back in 1998. And of course spotter planes  
16 are still a somewhat contentious issue in a fishery,  
17 but we'll be handling that in a court. We don't  
18 need to debate that any further here at this  
19 meeting.

20 I believe, at my peril perhaps of  
21 saying that we concluded for the most part our  
22 bluefin tuna discussion last night. I had penciled  
23 in that we might continue it this morning, but I  
24 believe we're ready to jump into bycatch issues.

---

BYCATCH ISSUES

MODERATOR CHRISTOPHER ROGERS:

Hearing no objection, Carol Brewster Gites prepared a presentation. We have some handouts here. And we'll be going through a summary. Of course we do have a chapter in the SAFE Report, as well, and several bycatch issues ongoing in the HMS fisheries. Thank you, Carol.

CAROL BREWSTER GITES: Thank you, Chris. There are two handouts going around. The first one is labeled bycatch issues. The second one is labeled the Northeast Distant Experimental Fishery. If you get a pile of extras, if you can place them on the back table, that would be great. Thanks.

Back in the FMP and the Billfish Amendment 1, we did set up a bycatch reduction strategy with a goal of minimizing bycatch and the mortality of bycatch if we can't actually minimize the bycatch.

Part of that included evaluating current data collection programs, logbooks, the observer programs, LPS and MRFSS. To some extent,

1 we have done that. Those of you who fill out the  
2 snapper/grouper logbook may have noticed this past  
3 year that it now has an additional discard logbook  
4 summary, as well, that's new, so anyone in the shark  
5 fishery who uses that logbook you can now get to  
6 record your discards. Logbooks, we've streamlined  
7 the voluntary economic information and we're still  
8 working on making that mandatory for a select group  
9 of participants. And we are working on LPS and  
10 MRFSS to some extent, as well.

11 In the FMP, if you remember, we did  
12 implement a June closure for bluefin tuna discards  
13 off New Jersey and New York in that area. That has  
14 shown some success and I heard that you guys talked  
15 a little bit about adding in more time area closures  
16 in the Gulf of Mexico if we need to. We're also --  
17 you're looking surprised. That's what I heard you  
18 talked about last night at the discussion to some  
19 extent, that there were some -- okay. We will look  
20 at that.

21 We are also coming out with a  
22 proposed rule for the target catch in the longline  
23 incidental fishery. Limited access, as you know,  
24 went through and the billfish is a catch and release

1       program.

2                   Other than that, a lot of what we've  
3       been focusing on has been the pelagic longline  
4       fishery. Starting in August we worked on closing  
5       three areas, the DeSoto Canyon, Florida East Coast,  
6       Charleston Bump. We also prohibited live bait in  
7       the Gulf of Mexico. And all of this is just on the  
8       pelagic longline fishery, and we should have the  
9       data available from last year to actually be able to  
10      start evaluating whether or not these closures and  
11      the live bait prohibition were efficient and met the  
12      goal. If they didn't, we will be looking at this  
13      again.

14                   As a result of exceeding the sea  
15      turtle incidental take statement in '99 and because  
16      of the time area rule that I just went through, we  
17      had a biological opinion in June of 2000 that came  
18      out with a jeopardy conclusion for the pelagic  
19      longline fishery. We did reinitiate consultation  
20      under that June 2000 biological opinion, but in the  
21      meantime, while we were waiting for the consultation  
22      to be finished, we did try to reduce sea turtle  
23      takes by implementing emergency rule in October of  
24      2000.



1                   This closed an area in the Northeast  
2                   Distance, just an L-shaped area. It wasn't the  
3                   whole area. We required line cutters and dip nets  
4                   for all the vessels in the fishery, and some of you  
5                   may remember in the time area rule we had a  
6                   definition of pelagic longline that included the  
7                   high flyers.

8                   As soon as that rule went final, we  
9                   started hearing that people were taking high flyers  
10                  off their boats. So, in this emergency rule we've  
11                  revised the definition and removed high flyers, so  
12                  it's just those four components that make up pelagic  
13                  longline.

14                 In January 2001, we had a technical  
15                 gear workshop to consider possible gear  
16                 modifications and to really look at the pelagic  
17                 longline fishery and how we could reduce sea turtle  
18                 bycatch in that fishery. The gear workshop was  
19                 pretty successful, I think. We do have the final  
20                 report available. I'm sure we can get copies over  
21                 by lunch, if somebody wants some, but it's also  
22                 available to be downloaded on our Web site.

23                 In March 2001, the emergency rule  
24                 that we've implemented was expiring. We're still

1        waiting for the consultation. But we did go forward  
2        with requiring line cutters and dip nets for all  
3        pelagic longline fishermen. We went forward with  
4        that revised definition of pelagic longline and we  
5        also, based on statistical power analysis, reduced  
6        the observer coverage required for the southeast  
7        shark drift gillnet fishery during the -- outside  
8        the calving season.

9                        So, on June 14th of 2001, we came out  
10       with a biological opinion that once again concluded  
11       the pelagic longline fishery was likely to  
12       jeopardize continued existence of leatherback and  
13       loggerhead sea turtles. And this biological opinion  
14       had a reasonable alternative which had several  
15       components: Closing the Northeast Distance;  
16       requiring that the gangeons be two gangeon lengths  
17       from the float lines, at least; require that  
18       gangeons be ten percent longer than the float lines  
19       in sets that were in less than 100 meters; and  
20       requiring croatable (phonetic) hooks.

21                      There were other measures that  
22       biological opinion required for other fisheries as  
23       well as the pelagic longline. This included  
24       reporting lethal sea turtle takes within 48 hours,

1 of landing, I think it was, of offloading; requiring  
2 that sea turtle handling and release guidelines be  
3 posted in the wheelhouse in both the pelagic and the  
4 bottom longline fishery.

5 We had mailed those out to all  
6 fishermen the year before on big, plastic placards.  
7 We then mailed out a paper copy out again last  
8 summer to fishermen, and we have it available on the  
9 Web site. But if you know of people who do not have  
10 these placards, the nice plastic ones, give us a  
11 call. We still have plenty and we can mail them  
12 out. Or as I said, the paper ones you can always  
13 download.

14 The shark gillnet fishery, it's  
15 required that the observer and the captain be  
16 responsible for sighting whales and reporting those  
17 sightings to NMFS, and also that the gillnet  
18 fishermen check their nets every couple hours for  
19 any marine mammal or sea turtle catch.

20 In 2001, in response to this  
21 biological opinion, we came out with another  
22 emergency rule. This closed the entire Northeast  
23 Distant. It went forward with the gangeon  
24 placements and the gangeon float line lengths as

1 required in the biological opinion. It did require  
2 the sea turtle handling and release guidelines to be  
3 posted. We extended that December of 2001 and it  
4 expires on July 8th.

5 We have recently come out, and there  
6 are copies on the back table, we can get more copies  
7 if we run out of what's here, of a Draft  
8 Supplemental Environmental Impact Statement. It  
9 includes all the economic analyses we're required to  
10 do. We should have the proposed rule out very  
11 shortly. We're just waiting for the Paperwork  
12 Reduction Act papers to go through to OMB.

13 MODERATOR CHRISTOPHER ROGERS: As the  
14 information clearance officer for NOAA often tells  
15 me, the Paperwork Reduction Act was never meant to  
16 reduce paperwork for the government, only for the  
17 public. So, we do have to do a lot of paperwork  
18 under the Paperwork Reduction Act.

19 CAROL BREWSTER GITES: This DSEIS is  
20 also available online, if you'd rather print it off  
21 yourself. We are hoping to have public hearings  
22 during the month of April, probably toward the end.  
23 We're thinking of a few locations, but if anyone has  
24 a location they would like to specifically designate

1 as important, we can always consider that. And the  
2 final rule has to be in place by July 9th. So, we  
3 have a pretty tight deadline on that. That's when  
4 the emergency rule expires.

5 And this is just a map showing all  
6 the areas that are currently closed to pelagic  
7 longline fishermen with HMS permits. So, there's  
8 quite a lot of them.

9 And now I'd like to show you what  
10 went on last summer in the experimental fishery. I  
11 did not actually attend this workshop, but it did  
12 give some of the preliminary results that they  
13 found, and I would like to stress these are  
14 preliminary. We do not have a final report. We do  
15 not have the final results. Some of the analyses  
16 are still underway.

17 MODERATOR CHRISTOPHER ROGERS: Make a  
18 quick comment on that, for those who weren't  
19 following or tracking the biological opinion too  
20 closely. The opinion did require closure of the  
21 Northeast Distant area, the area of highest turtle  
22 takes. But the opinion also recognized that in  
23 order to deal with the turtle issue effectively on  
24 an international scale, that gear research needed to

1 be conducted.

2 So, the opinion itself did allow for  
3 the conduct of experimental fishing in the closed  
4 area and a separate biological opinion was conducted  
5 on what we would call under the Endangered Species  
6 Act a Section 10 permit that was issued to allow  
7 vessels back into the closed area, and this is the  
8 results of that experimental fishery from last year.

9 CAROL BREWSTER GITES: The objective  
10 of the experiment was to explore the efficiency of  
11 certain measures, like gear modifications, to reduce  
12 the incidental take or the mortality of sea turtles.  
13 They tested the distance of gangeons from float  
14 lines; blue-dyed squid versus the natural squid; dip  
15 nets; line clippers; dehooking devices, they used  
16 quite a few of those. And they also started some  
17 post-release tagging studies.

18 There were eight commercial vessels  
19 that participated in this experiment last year in  
20 the Northeast Distant. All these vessels had to  
21 have 100 percent observer coverage. They also had  
22 to meet certain qualifications in order to go on.  
23 They made 186 sets. That was about two trips per  
24 vessel, a little bit less for some of the vessels.

1                   They did catch a number of sea  
2                   turtles, 142 loggerhead, 77 leatherback, but they  
3                   did not kill any, or at least no sea turtle  
4                   mortalities were observed. And you can see a  
5                   picture of an entangled sea turtle to your left and  
6                   one that's hooked in the fin to the right.

7                   They're still working on the analyses  
8                   for the gangeon placement. The blue-dyed bait  
9                   preliminarily there is no significant difference in  
10                  using blue-dyed bait over natural bait. They did  
11                  get some P-SAT tags deployed, 16 in the Northeast  
12                  Distant, seven in the Azores. And they also found  
13                  that the longer the gear soaks the number of  
14                  loggerhead sea turtles appears to increase  
15                  proportionally.

16                 Now, you'll notice on your work sheet  
17                 there are a couple other pictures. Those pictures I  
18                 could not convert to something that I could fit onto  
19                 a disk. So, that's why they're missing from this  
20                 slide, but they are in the work sheet that you have.

21                 They found that the LaForce line  
22                 clipper, which is one of the pictures we don't have,  
23                 seemed to work the best. And that's the one that  
24                 has little jagged V-shaped cutter in there. But

1       they're still trying to improve on that model.

2               The arc dehooker, which is -- see the  
3       little arrow -- this one off to the left, worked  
4       best on leatherback, whereas the flip stick and the  
5       Scotty seemed to work best on the loggerheads.  
6       Scotties was the other picture that I couldn't get  
7       on.

8               So, we are going to do this  
9       experiment again this year, testing a few different  
10      items. We do not yet have the contracting worked  
11      out for the vessels that would participate.  
12      Potential measures would be the hook type. I think  
13      Nelson's talked a little bit about that. Mackerel  
14      versus squid bait. Looking at the soak time based  
15      on the preliminary indications they had from last  
16      year. And continuing to look at the dehooking  
17      devices in the line clippers.

18              Along with the experiment that's  
19      going on in the Northeast Distant, there is also  
20      some experiments going on, fishery independent,  
21      elsewhere, looking at stealth gear and stuff. One  
22      of the things that they're looking at is predator  
23      avoidance, and this is a little video clip of that.  
24      This is a foam shark. It's not a real shark. And



1 if I can get this -- I'm trying to get that running.  
2 We'll see if it actually works.

3 Well, this is going to take a while,  
4 so we can -- once it starts going, it just goes in a  
5 continuous loop. So, if you want -- if anybody has  
6 any comments, that's all I had to show, so --

7 MODERATOR CHRISTOPHER ROGERS: We'll  
8 open up for discussion on bycatch issues.  
9 (Inaudible.)

10 UNIDENTIFIED: Thank you, Mr.  
11 Chairman. I have a question regarding the catch and  
12 release program, and I have never been able to get  
13 an answer because my understanding is as Glenn  
14 Delaney and I go out fishing in the same boat, and  
15 we go white marlin fishing and we're --

16 UNIDENTIFIED: (Inaudible.)

17 UNIDENTIFIED: I know, I know. And  
18 we take Ellen. But anyway, we catch and release  
19 white marlin, but we're not under the program. Now,  
20 these are discards or bycatch. However, if we're  
21 under a program using the same boat, the same gear,  
22 the same captain, same fishing area, and we're under  
23 a so-called program, which to me is just a piece of  
24 paper, there's no other difference the way we're

1 prosecuting our fishery, why is it not then -- I  
2 mean, what's the difference? Tell me the difference  
3 here. I don't understand. Everything happening the  
4 same. And I know law is law, but it goes back to  
5 the common sense thing again. What's the difference  
6 here? I need to understand this.

7 MODERATOR CHRISTOPHER ROGERS: Okay.  
8 Well, you're absolutely right. The law is the law.  
9 The Magnuson Act defined bycatch as fish not  
10 retained for sale or personal use. So, basically if  
11 you catch something, get it to the boat and release  
12 it back, live or dead, that's bycatch.

13 However, recognizing that there are  
14 established -- were established, are established and  
15 will continue to be established catch and release  
16 fisheries, where the intent is to obviously catch  
17 the fish and release it alive, the Congress clearly  
18 did not intend to include that in the definition of  
19 bycatch.

20 So, there was a clause that fish  
21 caught and released under a program would not be  
22 considered bycatch under the definition of the Act.

23 Now, what is a program is basically  
24 what we define as a program. We recognize in the

1 Billfish FMP that there is an established practice  
2 of catch and release fishing and therefore NMFS  
3 designated that in the FMP as a program. If a  
4 tournament rule requires release, it's a no-kill  
5 tournament so to speak, that's part of the program.

6 If it's a common event, private  
7 vessel recreational angler, going out fishing for  
8 yellowfin tuna, catches a marlin and -- you know,  
9 this is great, take a picture, measure the fish,  
10 maybe tag it, release it, that's also covered under  
11 the definition in the Billfish FMP.

12 UNIDENTIFIED: Okay, thanks. Now,  
13 what I wanted to ask you then, Chris, we do have  
14 tournaments and we have one of the tournament people  
15 here, a new member of the panel, but his tournament  
16 is -- and I hate to use the word, it's not a kill  
17 tournament. It's a modified type of tournament,  
18 where it's mostly release. And the anglers are  
19 encouraged to release fish and there's a higher  
20 minimum size than the federal.

21 Are those tournaments then considered  
22 -- the fish that are being released, and there's a  
23 lot more, are they under that program also  
24 automatically? Oh, they are. Okay, good. That's

1       what I wanted to find out, that we're getting credit  
2       for that. Thank you.

3               MODERATOR CHRISTOPHER ROGERS: To be  
4       fair -- I'll try to be fair. I have Mau Claverie,  
5       Wayne Lee.

6               MAUMUS CLAVERIE: I had two  
7       questions. One is you mentioned that you had  
8       modified the definition of pelagic longlines. Where  
9       do I find that?

10              CAROL BREWSTER GITES: Where do you  
11       find that?

12              MAUMUS CLAVERIE: Yeah.

13              MODERATOR CHRISTOPHER ROGERS: 635.2.

14              CAROL BREWSTER GITES: Yeah. It's  
15       also on the work sheet and --

16              MAUMUS CLAVERIE: In the work sheet?

17              CAROL BREWSTER GITES: -- actually on  
18       the back table here are some copies of that draft  
19       compliance guide that I was --

20              MAUMUS CLAVERIE: It's in there?

21              CAROL BREWSTER GITES: It's in here.

22              MAUMUS CLAVERIE: Okay.

23              CAROL BREWSTER GITES: If you want to  
24       grab a copy of that after this discussion, you can.

1 I was going to hand it out to everyone.

2 MAUMUS CLAVERIE: You were talking  
3 about the location for public hearings on the  
4 emergency rule, reinitiation or whatever you call  
5 it. Do you have a list already that would just be  
6 filling in blanks, or are you starting from zero, on  
7 the locations?

8 CAROL BREWSTER GITES: We're thinking  
9 of a few places, one up in New England, probably  
10 Barnegut Light, one down in Florida, and then maybe  
11 one in Silver Spring. But we didn't know whether --  
12 and that's four hearings. If people would want  
13 others, if we need one in the Gulf of Mexico, if we  
14 needed one in North Carolina, and most of this is  
15 pelagic longline. A lot of these measures have  
16 already been implemented in the emergency rules or  
17 the interim final. So, they're not necessarily new,  
18 but they are under litigation in some cases.

19 So, if you have a suggestion on where  
20 -- we also go into other alternatives for other  
21 fisheries, but we do not propose them in this rule.  
22 But similar measures, such as requiring line cutters  
23 and dip nets on rod and reel boats. And we do  
24 consider that as an alternative, but we do not

1       propose it in this case. Is that it, Mau?

2                   UNIDENTIFIED: (Inaudible.)

3                   CAROL BREWSTER GITES: Okay, thanks.

4       And Wayne, you're next.

5                   WAYNE LEE: I read recently, I'm not  
6       sure what the source was, where there was additional  
7       research being done on longlines. Something to do  
8       with a cover cap on the hook that prevents a hookup  
9       of birds and turtles and that kind of thing. Is  
10      that part of the program you all are sponsoring here  
11      or is that research someplace else?

12                  CAROL BREWSTER GITES: That's part of  
13      the independent fishing research that's being done  
14      right now, and that's the stealth gear that would be  
15      the caps that would be caps on light sticks so the  
16      light only shows down, gear that's not as easy to  
17      see as monofilament, that type of stuff. It might  
18      be tested next year in the experimental fishery. I  
19      don't know. But it is being tested elsewhere.

20                  GLENN DELANEY: Thank you. I have  
21      many comments. One on the Florida hearing, as you  
22      might imagine, a closure of the entire east coast of  
23      Florida and South Carolina and Georgia has made it a  
24      little difficult for longliners to operate in that

1 region. So, I'm not quite sure who would attend  
2 that other than maybe one company, Lingrin and  
3 Pickman, can certainly get on a plane and go to --  
4 I'm just trying to save you some money.

5 CAROL BREWSTER GITES: Right, but we  
6 do --

7 GLENN DELANEY: There's nobody left.  
8 They're all bankrupt.

9 CAROL BREWSTER GITES: -- have the  
10 gillnet fishery down in Florida and some of the  
11 measures propose to affect the gillnet fishermen.

12 GLENN DELANEY: Ah, okay. Don't  
13 expect any longliners --

14 CAROL BREWSTER GITES: And you also  
15 have the pelagic longline fishermen on the west  
16 coast of Florida. As far as we know, there's still  
17 some fishing on the west coast of Florida in that  
18 area.

19 UNIDENTIFIED: Turtles isn't even on  
20 their radar screen. They think it's just  
21 (inaudible).

22 GLENN DELANEY: Just trying to let  
23 you know that you're not going to get a lot of  
24 participation down there. I want to thank Chris

1       Rogers -- and I guess Ron Rinaldo was probably part  
2       of it, Bruce Morehead and Bill Hogarth, for putting  
3       together what was I think a very successful  
4       experimental fishery this past fall, and will bode  
5       well for sea turtles and longlining and bycatch  
6       reduction generally across the board, and we hope  
7       that we can get together and get a new program  
8       running for this year.

9               We do need to -- as Carol has  
10       mentioned, we're running up against a time  
11       consideration and we need to start sitting down and  
12       resolving some of the parameters of the experimental  
13       design, as a result of the workshop down in Miami.  
14       There are still some outstanding issues that we'd  
15       like resolved. So let's get on with it. I've  
16       talked to Jack a little bit and you might want to  
17       start scheduling something on that.

18              One of the issues, just to flag it  
19       for you, that is a pet peeve of my own, is -- and  
20       there are several others and I don't mean to  
21       diminish those, but the one I wanted to mention is  
22       the post release mortality issue.

23              Current assumptions in the biological  
24       opinion regarding post release mortality really



1       verge on the ridiculous in our opinion. They're not  
2       based on the best available science, what little  
3       there is. But aside from that, we clearly have a  
4       screaming need for post release mortality research  
5       to be conducted.

6               But just to point out to the panel,  
7       who I hope is unfamiliar with this, because I'm sure  
8       you have better things to do than to study this, but  
9       for example the current assumption by -- the  
10      biological opinion by the National Marine Fisheries  
11      Service, is that if a turtle happens to swim by a  
12      hook, whether it's a longline hook or I suppose any  
13      hook in the water, but with regard to longlining, if  
14      they happen to snag a flipper on a hook and get a  
15      puncture wound in their flipper, the current  
16      assumption is that 27 percent of those turtles die.

17             I might point out at the same time  
18      NMFS has over the past ten or so years put flipper  
19      tags on tens of thousands of the very same species  
20      from the very same population, that makes at least  
21      as big a hole through the flipper of sea turtles,  
22      for scientific purposes of course, of which there is  
23      an assumed zero percent mortality. That's how  
24      ridiculous the current post release mortality

1       assumptions are.

2               And anybody who's familiar with a  
3       reptile that is essentially a dinosaur that's been  
4       around for millions and trillions of years, these  
5       are not fragile animals. You see them with flippers  
6       bitten off from sharks, making their living in the  
7       ocean every day.

8               One of the unfortunate things we're  
9       starting to see emerge, however, is what we perceive  
10      to be an effort by the -- perhaps the Office of  
11      Protected Resources within National Marine Fisheries  
12      Service, to suppress or delay any research that may  
13      come to a different conclusion about post release  
14      mortality. I think we are concerned that -- well,  
15      last year we put out -- 17?

16              UNIDENTIFIED: Yes.

17              GLENN DELANEY: -- satellite pop-up  
18      tags to sort of test the technology, test the  
19      attachment technology, do something that some people  
20      refer to as calibration, which is an interesting  
21      concept. But in any case, I think it was reasonable  
22      to go out there and sort of for the first time kind  
23      of get a feel for how to do this. And we fully  
24      expected, and I believe we understood, that NMFS was

1 committed to pursue an aggressive post release  
2 mortality study this year through the deployment of  
3 many pop-up satellite archival tags and were  
4 dismayed to find out that the plan is to only deploy  
5 nine such tags, again not for post release mortality  
6 purposes, but just again to calibrate the tags.

7 Now, as you know, I'm pretty familiar  
8 with pop-up satellite tagging and outside of the  
9 NMFS scientists, I can't find anybody in the pop-up  
10 satellite technology business who even understands  
11 what it is they're talking about when you say  
12 calibration and why you would take two years to do  
13 such a thing is -- they just say it's ridiculous,  
14 you're obviously being sandbagged.

15 So, I just put you on notice that  
16 something is going on with the efforts to prevent us  
17 from undoing such ridiculous assumptions as 27  
18 percent post release mortality on flipper punctures  
19 or -- you know, things like that. I'll stop on  
20 that.

21 Going to bluefin tuna closures,  
22 Carol, I don't want to put words in your mouth, but  
23 I thought I heard you say that we discussed how the  
24 bluefin tuna closure in the Mid-Atlantic has been

1       successful and -- you know, I don't know if you  
2       meant that or not, but I was wondering how it is  
3       that you feel that it has been successful and what  
4       is it you're basing that conclusion on?

5               CAROL BREWSTER GITES: I don't know  
6       if it's been successful or not, but it has reduced  
7       bluefin tuna discards to some extent.

8               GLENN DELANEY: It has?

9               CAROL BREWSTER GITES: It has.

10              GLENN DELANEY: You've been able to  
11       analyze that some way.

12              CAROL BREWSTER GITES: We have the  
13       numbers in the SAFE Report.

14              GLENN DELANEY: Okay. I need to take  
15       a look at that and understand how you evaluate that.

16              CAROL BREWSTER GITES: They went up a  
17       little bit last year compared to the year before,  
18       but they're still below where they were before.

19              GLENN DELANEY: One thing I've always  
20       thought was curious was how you could draw a circle  
21       around the ocean and expect bluefin tuna to stay in  
22       it. You know, that's the same thing we tried to do  
23       at ICCAT 21 years ago and drew a line down the  
24       middle of the ocean, and sure enough the bluefin

1 tuna don't respect that line. I don't think they  
2 know it's there.

3 And so I was wondering -- you know,  
4 there are -- Rich could speak and Peter could tell  
5 you about how every year the places and times where  
6 bluefin tuna show up in the ocean are dramatically  
7 different. Maybe not one year to the next, but  
8 certainly in the last two years the occurrence of  
9 bluefin tuna assemblages in New England, for  
10 example, is strikingly different in terms of time  
11 and location than it was two, three years ago. I  
12 mean, profoundly.

13 And so to draw a box of I don't know  
14 how many -- probably tens of thousands of -- 10,  
15 20,000 square miles in the Mid-Atlantic bight and  
16 say that the occurrence of bluefin tuna and the  
17 interactions with the fishing fleet is a static  
18 situation that it can be relied upon to exist  
19 forever is to me not sound science.

20 So, I ask us to start thinking about  
21 these lines that we draw in the ocean when we're  
22 talking about highly migratory species who are  
23 opportunistic feeders, perhaps opportunistic  
24 spawners, who can go anywhere in the ocean they want

1           whenever they want, as our tagging data has shown,  
2           and -- you know, I'm sure there's some really  
3           helpful political aspects to drawing a box in the  
4           Mid-Atlantic bight, but I'm not quite sure it will  
5           sustain itself scientifically. Do you have any  
6           comment on that?

7                       CAROL BREWSTER GITES: Sure. When we  
8           did draw the lines and build the box, we did look at  
9           a number of years of reported data in the logbooks  
10          to find out where the highest percentage of  
11          discarded bluefin tuna, or in the case of the other  
12          time area closures, other discarded animals were.  
13          And we do continue to look at the efficiency. And  
14          if we discover that it's doing nothing, we will  
15          modify the box and change it, get rid of it if that  
16          seems to be the best course of action, but they're  
17          not static, they could change.

18                      GLENN DELANEY: I'm glad to hear that  
19          there's a way to analyze them, because you know, to  
20          me it's sort of black and white. When you close an  
21          area, it's very easy to say well, you know, it  
22          worked because there's no fish caught in it. So,  
23          you know, by definition it worked. You know what I  
24          mean? But is it really doing the best job it could?

1                   MODERATOR CHRISTOPHER ROGERS: Well,  
2                   again, the ultimate measure would be the dead  
3                   discards, as compared to our dead discard allowance.  
4                   If we're exceeding that, obviously there's a penalty  
5                   to pay, and certainly we'd want to reduce that to  
6                   the maximum extent that we can, which is why we were  
7                   looking at several ways of doing that. Another  
8                   suggestion that was made yesterday was doing some  
9                   more research on the possibility of breakaway gear.  
10                  And that's certainly something that can be looked at  
11                  not only in the Gulf of Mexico, but also in the Mid-  
12                  Atlantic region.

13                  We do recognize, and had stated in  
14                  our analytical documents, that an area closure is a  
15                  blunt instrument. And in order to ensure that you  
16                  will have some effect, it has to be larger than it  
17                  would be had you been able to examine the conditions  
18                  at any single point in time. So, hence, we would  
19                  average several years of data, and it just gets to  
20                  be a larger and larger area to include what's going  
21                  on.

22                  If there's possibilities, as we work  
23                  together with the fleet, to hone that area and even  
24                  make it somewhat more dependent on actual

1        conditions, have some sort of -- I think they call  
2        them up in New England with respect to the right  
3        whale situation variable -- or flexible action areas  
4        I think is what they were calling them. So, we can  
5        certainly pursue that.

6                    GLENN DELANEY: That kind of leads  
7        into my last question, and I'll shut up, is the  
8        evaluation of the effectiveness of the southern  
9        closures for small swordfish and billfish. As you  
10       probably painfully recall, we went through a lot of  
11       line drawing exercises for several years to address  
12       bycatch in the southeast. And that involved efforts  
13       by the agency, which started out with a thumbnail  
14       circle in the ocean and culminated with one of the  
15       most aggressive options that were even considered,  
16       not surprisingly -- I mean, it was a very  
17       politically driven exercise we went through.

18                   As you know, the industry also spent  
19       a lot of time analyzing their catch data and tried  
20       its very best to put some lines on the table that  
21       reflected their best efforts, and again, you know, I  
22       think we need some analysis of honing those lines.

23                   I'm certainly not suggesting that we  
24       don't believe in time area closures, because we do.



1 But as you said, we've gone to the extreme limits in  
2 many cases. We've gone to, you know, the larger  
3 size and now we need to say well, do we really need  
4 all those areas to be closed.

5 In particular, in the south. It's  
6 always bothered me that we went so far offshore on  
7 the other side of the Gulf Stream, where, you know,  
8 it's just -- our understanding of the fishery and  
9 the bycatch situation would not justify that.

10 So, we'd ask you to take a pretty  
11 hard look on the seaward sides of some of the  
12 southern closures and really determine is do we need  
13 to have closures out there for billfish and small  
14 swordfish bycatch reduction, or could we allow  
15 fisheries to be prosecuted on the eastern edge of  
16 the Gulf Stream. So, I really appreciate it.

17 The last thing I wanted to say was  
18 with regard to Jim Donofrio's comment on the  
19 provision that's in the bycatch definition. I was  
20 regrettably part of the final discussions on that  
21 provision with myself and I remember Penny Dalton of  
22 course was involved and Mike Nussman and you know,  
23 were standing I think in the front of Senator  
24 Browe's office or something, and it was a very

1 unstructured discussion which resulted in the  
2 language that's in there.

3 And like many things in my opinion in  
4 the Sustainable Fisheries Act, it's not exactly the  
5 best work Congress has ever done on fishery  
6 legislating. But one thing clearly that provision  
7 would apply to is the interaction of the  
8 recreational fishing industry with sea turtles,  
9 which is I think probably more significant than any  
10 of us want to talk about, but that I think would  
11 still fall within the definition of bycatch, and I  
12 just wanted to confirm that.

13 UNIDENTIFIED: (Inaudible.)

14 GLENN DELANEY: Okay. Thank you.

15 MODERATOR CHRISTOPHER ROGERS:  
16 Establish catch and release program for sea turtles.  
17 Okay. David Wilmot.

18 DAVID WILMOT: Thanks, Chris. You  
19 know, Nelson, I couldn't help but think that with  
20 your luck if you guys placed a foam shark on your  
21 line, a killer whale would eat it and die and you'd  
22 get in trouble under the Marine Mammal Protection  
23 Act.

24 Chris, you guys didn't answer Glenn.

1       Is that true, only nine tags are proposed to be put  
2       out this next year, independent of what they're  
3       calling this calibration study? Is it really that  
4       few?

5                   MODERATOR CHRISTOPHER ROGERS: I'm  
6       not exactly sure. This was an experiment being  
7       conducted out of the Southeast Fisheries Science  
8       Center. I'm not exactly sure what Glenn was  
9       referring to. You said the term calibration. My  
10      understanding of the experiment, and again those who  
11      are interested should probably check with Nancy  
12      Thompson, was that the intent was to capture  
13      turtles, basically unharmed. A so-called safe  
14      method of capturing, not resulting in any possible  
15      injuries or entanglement, and attach the tag so they  
16      could assess what the failure rate of tags would be  
17      as a background, and these are obviously programmed  
18      to pop off at a certain point in time, so that they  
19      basically would be a control as opposed to the use  
20      of calibration.

21                   Whether they're referring to  
22      calibration in some technical sense about  
23      communicating with the tags or the attachment  
24      mechanism or something, I'm not sure, but -- the

1 programming of the tag. But you know, clearly  
2 that's the intent of the experiment, is to have a  
3 group of turtles that are -- to which the tags are  
4 affixed that are considered basically unharmed in  
5 any way and therefore whatever happens to those tags  
6 can be used as a control to those tags that would be  
7 attached to a longline caught turtle. And exactly  
8 how many tags they have and where they intend to  
9 deploy them and stuff like that --

10 DAVID WILMOT: Well, if I could just  
11 say, with an experiment that's this important, and  
12 it sounds like there are some differing opinions  
13 about what may be done, based on the limited  
14 information, I suspect we have about 20 different  
15 ideas around the table.

16 In the future with something this  
17 important, it might be really helpful to have a five  
18 minute or ten minute presentation by the folks who  
19 are designing the experiment, who know what they're  
20 trying to answer.

21 It will then help us give you some  
22 advice on what we think about this and those types  
23 of things. I know you have small groups with  
24 industry come together, and that's essential, to

1 help give you advice on designing this, and that was  
2 done before. But I can't sit here and give any  
3 helpful input on this at all, because it's very  
4 unclear to me what they're going to be doing this  
5 next year. Okay. But that's not my main question.

6 Carol, you made the comment that  
7 under the evaluation of the effectiveness of the  
8 closures, which is really the critical issue that's  
9 going to be coming forward, that you would determine  
10 whether or not, quote, you'd met the goal. And in  
11 conversations, Chris, we've heard you use that  
12 phrase before, meeting the goals of the final rule.  
13 That is very unclear to us exactly what those goals  
14 are or were.

15 Two things. First, the timing. For  
16 a couple of months now, we've been trying to get a  
17 more specific time out of you for when we would have  
18 the analysis. The plan is for this to be presented  
19 at SCRS. So, we know it has to happen by the end of  
20 the summer, early fall. It will be presented at the  
21 swordfish working group.

22 So, I'd like to first hear a little  
23 bit more about the specific timing of when we will  
24 have the analysis in hand, but more importantly, the

1 criteria that will be used to evaluate  
2 effectiveness. If you could tell me very clearly  
3 what the goal was and is, and how you're going to  
4 evaluate the effectiveness, whether or not you  
5 reached it. Thank you.

6 MODERATOR CHRISTOPHER ROGERS: Well,  
7 with respect to timing, we are dependent on the data  
8 being collected through obviously the observer  
9 program as well as the logbook program. And it does  
10 take some time. Those programs are headed up by  
11 folks at the Miami laboratory. I don't know if  
12 Carol has a better sense of working with the data as  
13 to when the logbook data might be available for  
14 2001.

15 CAROL BREWSTER GITES: The final  
16 logbook data usually isn't available until June or  
17 July of the following year. That's after it goes  
18 through all its proofing and everything. So, we  
19 wouldn't even get the data until that point. I  
20 hadn't heard that it was going to be available to  
21 the swordfish working group, but that would be great  
22 if it is.

23 MODERATOR CHRISTOPHER ROGERS: The  
24 swordfish working group meeting at the fall ICCAT

1 meeting?

2 DAVID WILMOT: No, the swordfish  
3 working group that will be doing the assessment --

4 MODERATOR CHRISTOPHER ROGERS: For  
5 the assessment.

6 DAVID WILMOT: So, it's the true  
7 working group part of SCRS. The plan was for NMFS  
8 to prepare this effectiveness paper and present it  
9 to that group. Nelson, is that your understanding,  
10 as well?

11 MODERATOR CHRISTOPHER ROGERS: This  
12 is a fallout or follow-on from last year's  
13 resolution. Well, again, we can see what we can do  
14 to accelerate the data. As far as the types of  
15 analysis, it would be basically the same structure  
16 that we had used in a retrospective analysis in the  
17 rulemaking itself, looking at the average catch  
18 rates in different areas.

19 Certainly what we would be looking at  
20 is the fact that the effort would not -- no longer  
21 be expended in those closed areas and has been  
22 redeployed elsewhere, and what the average bycatch -  
23 - and what the net effect would be of a migration  
24 from a higher bycatch area to a lower bycatch area.

1                   As far as the objective, it wasn't  
2                   quantitative in a sense that many folks would like  
3                   it to be. The National Standard says to reduce  
4                   bycatch to the extent practicable, and our situation  
5                   is that it's a multi-objective approach that we took  
6                   towards bycatch reduction, again looking at that  
7                   practicable standard with respect to turtles,  
8                   billfish, juvenile swordfish, bluefin tuna, marine  
9                   mammals.

10                  And certainly you could design a  
11                  program with an identified quantitative goal of  
12                  let's say a 15 percent reduction or 20 percent  
13                  reduction, maybe something similar to what is done  
14                  under the Marine Mammal Protection Act where you  
15                  form take reduction teams and do a take reduction  
16                  plan by identifying a potential biological removal  
17                  and that your initial plan has got to get to below  
18                  PBR within six months and things like that.

19                  But again, even under the MMPA, it's  
20                  a continuing process with a zero mortality rate  
21                  goal. So, clearly there's an objective under MMPA  
22                  of zero mortality. It's not the same standard when  
23                  you have language to the extent practicable, because  
24                  clearly there was an intent to balance the social



1       and economic objectives of having a sustainable  
2       fishery at the same time.

3               In the situation where we do have a  
4       biological opinion, a jeopardy call, a listed or  
5       threatened species, certainly you can say that the  
6       incidental take statement itself would provide that  
7       backdrop of what the absolute number would be.  
8       Clearly there is an authorized level of take that's  
9       considered to be consistent with recovering the  
10      species, and you should be below that authorized  
11      take in the incidental take statement.

12             For something like juvenile swordfish  
13      for bluefin tuna, arguably there is a zero mortality  
14      rate goal, so to speak, for juvenile swordfish,  
15      because we're going to be faced with a phase-out of  
16      the dead discard allowance. And once that's phased  
17      out, then it's going to have to come off the top of  
18      the quota. With bluefin tuna, it doesn't phase out,  
19      but clearly there's a concern to remain within the  
20      identified dead discard allowance.

21             So, in a sense there are several  
22      types of quantitative goals or measures or standards  
23      that we can look at. To try to achieve them all at  
24      the same time may be impossible, yet we're going to

1       have to strive to be within those identified  
2       boundaries.

3               Again, they're all sort of coming at  
4       us from different perspectives, whether it's ESA,  
5       MMPA, or ICCAT recommendations or just sound  
6       conservation and management and bycatch reduction  
7       under Magnuson. For those -- I'm not a mathematical  
8       expert, but I did take some courses, linear  
9       programming sort of comes to mind, where you have  
10      multiple -- you have an objective function with  
11      multiple constraints. And that's sort of what we're  
12      facing here.

13             And I don't know that you can develop  
14      that kind of a quantitative model and say that we're  
15      doing the best we can, unless you were willing to  
16      make some tradeoffs in that objective function of  
17      saying that well, two turtles are worth one pilot  
18      whale or worth two juvenile swordfish is worth one  
19      bluefin tuna. I don't think we really want to go  
20      there. I don't think that's productive. It would  
21      certainly be beyond my mathematical skills, but  
22      arguably it could be done.

23             So, it will be a continuing process  
24      based against all the benchmarks that we have.

1 Again, whether the benchmark is an incidental take  
2 statement, an ICCAT recommendation, or something  
3 that's a consequence of a take reduction plan under  
4 MMPA with large whales or offshore cetacean, the  
5 various teams that are looking at the species  
6 affected by or interacted with HMS fisheries.

7 UNIDENTIFIED: If I can just follow  
8 up. I think I understand -- and we've heard this  
9 for many years -- the balancing the multiple  
10 objectives, and that makes perfect sense. But that  
11 does not, in my opinion, mean that you cannot be far  
12 clearer with where you're trying to take the  
13 fishery.

14 I can understand why Nelson gets so  
15 nervous. When you look at the bluefin closure, it's  
16 put down in very quantitative terms. What changes  
17 in the closed area. With no discussion of all the  
18 factors you just described that are so incredibly  
19 important, that's not in the SAFE report in that  
20 section. Why?

21 I can't understand why there wouldn't  
22 be a detailed discussion that helps lay out your  
23 vision of where you're trying to take it. It can be  
24 quantitative. But the only thing you put's a

1 qualitative table with no evaluation of whether or  
2 not it's getting you to this place where you'll feel  
3 more comfortable than you did three years ago.

4 And I don't want us to be in that  
5 same dilemma in a year when we're looking at the,  
6 quote, effectiveness of the closures down south and  
7 in other places. You guys may not like it, but  
8 you're going to have to articulate your vision of  
9 where you want these fisheries to be. There's no  
10 way around it. It's what gets you in trouble over  
11 and over and over.

12 And I know why you're reluctant to do  
13 it, because it makes you more vulnerable when you  
14 fail, but we're going to continue to beat you from  
15 both sides if you do not articulate this vision.  
16 And until you do that, you also, I don't think, will  
17 be able to get adequate input around this panel  
18 where we can help you to strengthen the arguments  
19 for what you're trying to do.

20 So, again, I implore you to think  
21 about what you're really trying to accomplish, share  
22 it with us, and then let us decide whether or not  
23 we're going to sue you or whatever you're afraid of.  
24 But don't not do it because you're afraid you might

1       be wrong, you might actually get constructive input  
2       that will help you fine-tune closures, have fewer  
3       closures in other areas different and use other  
4       tools that are available.

5               So, I don't -- I'm sure my  
6       frustration is showing. It's going to grow between  
7       now and when this analysis comes out, because I'm  
8       going to have a piece of paper and nothing more.  
9       And neither will Nelson. He'll say okay, we were  
10      put out of business and you got these numbers, now  
11      what.

12              MODERATOR CHRISTOPHER ROGERS: Just a  
13      quick response. It's not that we are reluctant. I  
14      don't feel like I'm personally fearful of trying to  
15      do the best we can. Again, it is multiple  
16      objective, yet we do have some general boundaries.  
17      Again, as I said, with incidental take statements,  
18      with the various take reduction teams that come into  
19      play.

20              And it is going to be a balancing act  
21      and it's probably not going to be a situation that  
22      would become static at any point in the future,  
23      where we have a tool box, so to speak, of potential  
24      gear modifications, of potential area closures, to

1       the extent that they could be more flexible as  
2       opposed to the blunt instrument of just picking the  
3       biggest area possible to know that you had some  
4       effect. Other things that may not come to light  
5       immediately in terms of understanding more about the  
6       behavior of the animals, how they interact with the  
7       gear, the stealth gear.

8               So, it's not going to be -- I don't  
9       think it will ever be a situation where we're going  
10      to set some numbers and say hey, we've got below  
11      these thresholds for these various bycatch species  
12      and our job is done. It's going to be a continuing  
13      process. It does take a lot of resources.

14             Granted, we haven't done maybe as  
15      good a job of articulating the vision. Maybe it's  
16      because it's a little bit more diffuse than folks  
17      who are coming at it from a particular angle might  
18      like to hear from the agency, because I'm interested  
19      in turtles and I want zero mortality of turtles, or  
20      I'm interested in recovering swordfish and I don't  
21      want to see any dead discards in those tables  
22      anymore.

23             But from our perspective, we're  
24      getting, as you say, beat from both sides all the

1 time and we will do a better job of articulating and  
2 certainly we do expect to have some more data  
3 available to us for next year's SAFE Report to do a  
4 better job of evaluating where we think we are and  
5 what further steps could be taken.

6 So, I don't want to leave anybody on  
7 the panel with an impression that we are reluctant  
8 to rise to the challenge, but it is a pretty  
9 daunting challenge. Joe McBride.

10 JOSEPH MCBRIDE: Thank you, Chris. A  
11 couple of things. Just if someone would give me  
12 that -- I picked it up peripherally. The definition  
13 of bycatch as you're utilizing it in the SAFE Report  
14 and today's discussion.

15 UNIDENTIFIED: (Inaudible.)

16 JOSEPH MCBRIDE: Well, you don't have  
17 to give me it literally. Just give me an over --

18 MODERATOR CHRISTOPHER ROGERS: Fish  
19 not retained for personal use or for sale.

20 JOSEPH MCBRIDE: All right. So,  
21 shark tournaments, most of which are catch and  
22 release with a small -- at least certainly in our  
23 area, with a small retention for to determine the  
24 winner of a tournament and a minimal number of fish

1 coming in, all of whom in our area are utilized by  
2 your Narragansett Lab as a basis for their research.

3 So, again, because -- and I'm going  
4 back historically from when Jack was in charge of  
5 the lab and so forth -- you have very little other  
6 resources to acquire material or specimens for their  
7 resource, the best way and cheapest way you can do  
8 it through the agency is by the tournaments,  
9 certainly in the northeast. And this is fact and we  
10 bring anything unusual in and they make requests for  
11 unusual things, okay.

12 Now, when you have this -- and  
13 secondly the tagging program, affiliated with  
14 sharks, which we find enables us to maintain our  
15 businesses in a two-month segment up in the  
16 northeast, and still release 99 percent of our fish  
17 alive.

18 And I -- you know, as I said earlier,  
19 I probably personally tag and release over 200  
20 sharks on an annual basis, give or take. The tags  
21 are becoming harder to get because some people think  
22 you don't give them enough money in Narragansett to  
23 buy more tags or whatever, but I would be last to  
24 criticize you regarding that.



1                   And these are good policies, good  
2                   program. They have been good programs. They're  
3                   conservation oriented. The public accepts them. We  
4                   try to avoid waste -- I don't know and I'm going to  
5                   ask you, the mortality percentages on release  
6                   sharks. I've had sharks tagged in the Montauk area  
7                   that have been recovered, Azores, Gulf of Mexico,  
8                   Venezuela, where the assumption is they follow the  
9                   Gulf Stream around, go down the European coast and  
10                  come across the equator, somewhere along those  
11                  lines. My geography is not as good as it was when I  
12                  was younger.

13                  But these are good programs. I  
14                  wouldn't want to be considered a waster of a  
15                  resource and be put out by any extremist idea of  
16                  what bycatch is. So, I mean, and I'm sort of new  
17                  paying -- I know there's whales and I know there's  
18                  turtles and what have you, and Glenn, just out of  
19                  curiosity -- I assume you're joking again. In 30  
20                  some odd years and been in the business as a charter  
21                  boat captain and years before that fishing, I don't  
22                  recall ever catching a turtle trolling anywhere.  
23                  But you know, I'm sure it can happen.

24                  GLENN DELANEY: I'm dead serious and

1       you're --

2                   JOSEPH MCBRIDE: Well, I'm just  
3       saying in our area and I have never heard of over  
4       the 100 licensed captains that I supervised for 23  
5       years in the Montauk Boatman's and Captain's  
6       Association, catching a turtle trolling around. But  
7       you know, nothing is impossible in America.

8                   GLENN DELANEY: Joe, I think you need  
9       to get educated on this issue.

10                  JOSEPH MCBRIDE: I'm sure I could,  
11       but I'm just telling you what I know from fact from  
12       my own experience on the water. You might have  
13       other experiences. But thank you anyhow.

14                  And again, you know, it's probably  
15       what I'm saying is extremism is what I'm concerned  
16       about, either, you know, extremism one way,  
17       extremism the other way. And I think you answered  
18       some of my concerns by saying you'd try to modify  
19       the results of eliminating bycatch, you know, is it  
20       -- can you get 100 percent in this area or 100  
21       percent in that -- keep it down to a minimum, not an  
22       absolute. Is that correct, also, Chris?

23                  MODERATOR CHRISTOPHER ROGERS: Well,  
24       again, it depends on where the goal or objective

1 derives from, whether it's a biological opinion,  
2 incidental take statement, marine mammal take  
3 reduction plan, or an ICCAT recommendation or just  
4 our general interest in abiding by National Standard  
5 9 for reducing bycatch to the extent practicable.  
6 So, certainly reductions are always good when  
7 considered against the cost of achieving those  
8 reductions.

9 And with respect to recreational  
10 fishing and catch and release, Congress clearly  
11 meant to not include catch and release program fish  
12 in the definition of bycatch, so that the agency  
13 wouldn't be bound to strive to reduce fish taken and  
14 released in good health under those programs.

15 Now, it didn't define what a program  
16 is, and that's pretty much the discretion of the  
17 Councils and the agency with respect to HMS to  
18 define what those programs are, which we have done  
19 with respect to billfish and bluefin tuna and sharks  
20 and others in the cooperative tagging program.

21 JOSEPH MCBRIDE: Okay. You didn't  
22 answer, though, or someone didn't answer, mortality.  
23 Do you have just as an aside -- technically, I'm not  
24 -- the mortality, you know, of released sharks that

1 are tagged, etcetera?

2 CAROL BREWSTER GITES: I'm sure some  
3 of the scientists probably have that off the top of  
4 their heads --

5 JOSEPH MCBRIDE: Yeah, I can tell you  
6 for example striped --

7 CAROL BREWSTER GITES: -- but I know  
8 that it depends on the species what the mortality is  
9 going to be.

10 JOSEPH MCBRIDE: Well, in our area,  
11 most of your released sharks are blue sharks.

12 CAROL BREWSTER GITES: As far as I  
13 know, blue sharks are pretty hearty animals and it  
14 takes a lot to kill them. A lot of the --

15 JOSEPH MCBRIDE: All right. But for  
16 example in our immediate area, I think the accepted  
17 rate, with studies done for such species as striped  
18 bass is eight percent mortality for -- up to eight  
19 percent mortality for released striped bass, you  
20 know, caught and released. So, I don't know what --  
21 you know, if there were similar figures for HMS  
22 species. I just don't know.

23 CAROL BREWSTER GITES: I do know that  
24 the blue sharks that are caught in the Northeast

1 Distant on pelagic longline have --

2 JOSEPH MCBRIDE: I can't believe it.  
3 I get one call a year on this thing.

4 UNIDENTIFIED: Tell them we said hi.

5 NELSON BEIDEMAN: Couple of things I  
6 wanted to address to Joe. I'll wait till he's all  
7 settled. But on the sea turtle research, I'd also  
8 like to thank National Marine Fisheries Service the  
9 HMS Division and the Office of Sustainable  
10 Fisheries, because you know, we really had to  
11 scramble last year to get this through. And a lot  
12 of people went a long ways beyond the call of duty  
13 to get it done. And it is very important to all the  
14 hook and line fisheries here. And even to all the  
15 fisheries in the nation, because sea turtles is a  
16 huge problem and it does affect all of us.

17 Joe, I understand why you feel the  
18 way you feel, because when I started -- you know,  
19 commercial fishing and longlining, etcetera, we  
20 never ever saw turtles. They just were not out  
21 there at that point. We probably started when  
22 they're at their lowest levels.

23 The work that's been being done with  
24 the shrimpers, with beach protection, etcetera, in

1       the United States, is amazing. Loggerhead sea  
2       turtles are from what we can tell skyrocketing. Of  
3       course, you know, a lot of folks would like to keep  
4       it as a cash cow, but one of the bigger problems is  
5       leatherbacks. We don't have that many nesting areas  
6       in U.S. soil for leatherbacks and that will end up  
7       being a larger problem than even the loggerheads.

8               But all of the hook and line  
9       fisheries are in the equation. If you think you're  
10      not, you need to really think --

11             JOSEPH MCBRIDE: No, I'm not --  
12      Nelson, I don't want to go into a dialogue back and  
13      forth. Just again, technically, we see a lot of  
14      turtles all over the ocean. You know, I do a lot of  
15      running offshore and we see an awful lot of turtles,  
16      which we have not hooked them by utilization of our  
17      gear, and I wouldn't want to be our gear to be  
18      included in the baited gear which -- and I'm not  
19      knocking anybody for having baited gear. It's more  
20      prone to hook species, including loggerhead turtles  
21      or any other kind of turtle, anything that's  
22      stationary and a piece of bait, all sorts of species  
23      will get on it, and I know you guys try to avoid  
24      scenarios like that.

1                   But I'm not -- get into this longline  
2                   versus whatever, I'm just saying that for the record  
3                   in my 30 years as a captain, I have never nor ever  
4                   heard in our area of snagging a logger or a turtle  
5                   of any kind, a sea turtle. So, and I want that as  
6                   far as my -- that's my opinion and my statement on  
7                   that particular issue.

8                   NELSON BEIDEMAN: Well, like Glenn  
9                   said --

10                  JOSEPH MCBRIDE: That doesn't mean  
11                  we're not concerned about it and it doesn't mean  
12                  it's not an environmental issue to be concerned  
13                  about.

14                  NELSON BEIDEMAN: Like Glenn said,  
15                  you should ask around today because -- you know, in  
16                  the last few years it's really, really going up.  
17                  But the important thing is that we do try to all  
18                  work together to have this cooperative effort to try  
19                  to use -- and what it is is we're being used,  
20                  they've got us under the thumb -- but use the U.S.  
21                  platform fishery as research to try to solve the  
22                  real problem, which is international.

23                  And we learned amazing things, things  
24                  that we didn't think that we were going to learn in

1       last year's research, and there's -- you know, some  
2       serious research that's on line for this year.

3               But one of the things that is a  
4       little bit of a problem is most of the scientists  
5       and the academia that's involved in the sea turtle  
6       task force, they're only worried about turtles.  
7       They're not worried about the very important  
8       balancing and tradeoffs that these U.S. hook and  
9       line fisheries will ultimately have to do.

10              So, I'm always in there, you know,  
11       reminding -- well, we've got sharks and we've got  
12       billfish and -- you know, we have to be careful here  
13       and we have to be careful there and they're  
14       scratching their heads because all's they know is  
15       turtles. Very, very important for HMS to remain  
16       deeply involved in this for all of our interests,  
17       very important that this research take place.

18              On the tags, you know, I'm sure that  
19       once we really have a sit-down that there is going -  
20       - there has to be some serious survivability  
21       studies. Three of the 17 tags have prematurely  
22       popped up. Two of the turtles were out to the  
23       Azores. One of the turtles had headed back to the  
24       southwest, it's like down near Bermuda, it popped up



1 the week of the workshop.

2 But just to let you know some of the  
3 differences involved here, and I don't think it will  
4 be good to get into a debate of what's right and  
5 what's wrong, but these tags on the sea turtles, SAT  
6 tags, are being set for ten months. They don't  
7 download their data for ten months, as opposed to on  
8 the white marlin the SAT tags downloaded in five  
9 days.

10 Which is right, which is wrong, which  
11 should be used for mortality studies, you know, we'd  
12 have to go to the scientists and have quite a  
13 debate. But that's the type of differences that  
14 we're talking about here.

15 It is nine tags for this year and  
16 they're not controls, they are semi-controls.  
17 They're just entangled animals. We're going to have  
18 to get control animals, hopefully, this year or next  
19 year.

20 On the bycatch closures, one of the  
21 real things that is concerning me, aside from  
22 everything that Dave brought up, and Dave is right,  
23 and Chris is right on these balances, is that  
24 there's a real concern in SCRS that how are we going

1 to keep track of recruitment. The U.S. index was  
2 very, very important to the overall science of North  
3 Atlantic swordfish.

4 Well, we've screwed that index up.  
5 They can't use that index. They can't use the small  
6 fish index. We're not fishing those areas. They  
7 can't use the CPUE's. The Grand Banks is completely  
8 manipulated.

9 We're at a point right now that we'll  
10 almost be totally dependent on Spanish information  
11 to figure out the health of the North Atlantic  
12 swordfish stock. I don't think we want to be in  
13 that position for very long. That's it for now.  
14 Thanks.

15 MODERATOR CHRISTOPHER ROGERS: Bob  
16 Hueter.

17 ROBERT HUETER: Thank you, Chris.  
18 Yeah, a couple of comments and questions. One is  
19 for Joe, the issue of the catch and release  
20 mortality in the recreational fishery for sharks. I  
21 don't want to quote an exact number, because it  
22 does, as Carol said, depends heavily on the species  
23 and the conditions and how the fish is handled with  
24 the boat and that sort of thing. But you're right.

1       It's extremely low. And studies that have been done  
2       range anywhere from -- you know, zero to higher, 50  
3       perhaps, depending upon how it's handled.

4               But in general, catch release  
5       mortality in the recreational fishery for sharks is  
6       very low, and I could see his point that the term  
7       and the definition of bycatch -- the parameters  
8       surrounding that don't really fit with a catch  
9       release sport fishery format, because in that  
10      fishery the target is to release, not retain your  
11      catch. So, it's sort of upside down. Maybe some  
12      thought needs to go into that just to avoid  
13      problems.

14              CAROL BREWSTER GITES: If I could  
15      clarify one of the National Standards, it's not just  
16      to minimize bycatch, but to the extent bycatch  
17      cannot be minimized to minimize the mortality of  
18      that bycatch.

19              ROBERT HUETER: Mortality, right.

20              CAROL BREWSTER GITES: So I think  
21      that's been missing in some of this discussion.

22              ROBERT HUETER: Well, but again, I  
23      don't want to debate semantics, but it's not a  
24      bycatch. It's a catch mortality. The whole thing

1 is kind of upside down. I just need to have room  
2 for that in the discussion.

3 On the turtle bycatch issue, I find  
4 this kind of fascinating, the whole thing, or I  
5 would as a scientist all the experiments you guys  
6 have been involved in. I think it's wonderful. For  
7 Glenn, the -- I don't know what this calibration  
8 experiment is all about, but I suspect, having done  
9 satellite tagging work myself, that they're trying  
10 to assess things like the difference between a tag  
11 that fails and actually mortality.

12 And when a turtle dies, what happens  
13 to it? Does it sink? What does it look like when  
14 you get that tag back, to know the difference  
15 between a dead turtle and a tag that's failed? And  
16 these tags do fail. Sadly, \$4,000 down the toilet  
17 when they fail, and plus.

18 And Nelson, as far as the setting of  
19 the pop-off, yeah, ten months sounds a little  
20 protracted. I can see, though, that they want to  
21 look at things discerning acute versus chronic  
22 mortality. You have an acute mortality where an  
23 animal dies, you know, within hours or days. Then  
24 you have a chronic mortality that might be due to

1 infection because of the hooking wound that would  
2 take a lot longer, but I think ten months may be  
3 awfully long. But if they're trying to combine this  
4 with a study of turtle migration, for example, then  
5 you want the tags out for as long as possible.

6 I want to ask Glenn what the basis of  
7 that number is that he quoted, 27 percent mortality  
8 of flipper hooked turtles. That sounds like  
9 something that was actually calculated as opposed to  
10 just estimated. Is that -- what is that based on?  
11 Either of you guys?

12 GLENN DELANEY: You know, I --

13 ROBERT HUETER: I'm not questioning  
14 your --

15 GLENN DELANEY: No, no.

16 ROBERT HUETER: -- the fact. I'm  
17 just wondering --

18 GLENN DELANEY: It's what it is. I  
19 can assure you that. And as I suggested, maybe the  
20 best scientific information available was not used.  
21 But it was based on some studies, I think, that were  
22 done in the Azores, but also on tagging in the  
23 Pacific. And as you know, with tagging of sea  
24 turtles, they have a great deal of attachment

1 problems as well as tag failure problems and  
2 assumptions were made that perhaps mortalities that  
3 were otherwise technological failures were included,  
4 and also, you know, there's a complete absence of  
5 any control study.

6 You know, it was very poor science.  
7 But you know, in fairness, there's a dearth of  
8 science. There's not much to go on. But there  
9 wasn't much common sense applied, too. It's clearly  
10 the worst case interpretation of some of the  
11 information available.

12 But again, being a subject of  
13 litigation -- I don't know how far we can go into  
14 this discussion. Maybe we need to pursue this a  
15 little --

16 MODERATOR CHRISTOPHER ROGERS: Let's  
17 just say the biological opinion and the population  
18 assessment done to support it by Southeast Center,  
19 it was detailed. The studies that they had used,  
20 the condition of the animals, the extent of the  
21 injuries, all that kind of stuff. And basically  
22 goes through the suite of assumptions that were made  
23 to get mortalities assigned for different levels of  
24 interaction and condition upon release.

1                   ROBERT HUETER: Well, just yeah, I'm  
2 interested to know because I think it does sound a  
3 little high to me because turtles are --

4                   GLENN DELANEY: Well, as a biologist  
5 I'm sure that sounds a little --

6                   ROBERT HUETER: Sounds high. I mean  
7 it's -- you know, as you pointed out, they have some  
8 toughness to them and they do sustain, you know,  
9 shark bits fairly regularly. So, probably more work  
10 needs to be done. That may be a maximum figure.

11                   But I would not -- I would be  
12 hesitant to make an analogy between a hook wound and  
13 a NMFS turtle tag, because the way that the turtle  
14 tags were applied, they're applied to a certain area  
15 of the flipper, if they're done right, to try to  
16 minimize the trauma. So, you know, we can debate  
17 that, but it sounds like more work needs to be done.

18                   GLENN DELANEY: Our hooks are  
19 removed. The tag stays in forever.

20                   ROBERT HUETER: Well, that's not  
21 necessarily going to be a detriment, but there's no  
22 question that tagging of turtles has been a  
23 difficult part, really.

24                   The last thing is I just have to ask

1 Carol about this foam shark. I'm intrigued by it.  
2 You guys, too. Is this serious? I mean, I just  
3 want to know is this -- did you just throw that up  
4 at the end or was this a real serious effort?

5 CAROL BREWSTER GITES: That was one  
6 of the things that they're looking at, predator  
7 avoidance. And I'm sorry I wasn't able to get the  
8 video working, but what it shows is as soon as the  
9 turtle comes into pretty much clear sight, it sees  
10 the shark and it just turns around and high tails it  
11 out of there. It's pretty funny to watch.

12 ROBERT HUETER: It looked like it was  
13 sort of a white shark model kind of --

14 CAROL BREWSTER GITES: Yeah, it was  
15 --

16 ROBERT HUETER: -- big mako -- the  
17 question I have is what's -- I'm not sure where  
18 you're going with this, what's the thinking behind  
19 this, because wouldn't you have -- wouldn't that  
20 kind of discourage your target species from coming  
21 up in the area, too?

22 CAROL BREWSTER GITES: I would think  
23 so. I'm not the one who designed the studies.

24 ROBERT HUETER: I mean, you could



1        throw dynamite in and discourage everything from the  
2        area. But I think the idea is to discriminate  
3        between the bycatch and the --

4                CAROL BREWSTER GITES: It was a  
5        pretty big foam shark, so I would think so too, Bob.

6                UNIDENTIFIED: A lot of this stuff  
7        keeps coming from the Pacific. That's where the  
8        blue bait came from, was the Pacific.

9                GLENN DELANEY: Desperate actions by  
10       desperate men.

11               RAMON BONFIL: Okay. I have two  
12       questions. First one is related to the archival  
13       tagging. I don't know the details and I don't know  
14       if anybody in this table could answer the question,  
15       but I just wonder why was PAT technology chosen for  
16       a mortality study, rather than straight satellite  
17       tagging. Put spot tags or put real time satellite  
18       tags, which have been used for many years in  
19       studying migrations and movements of sea turtles.

20               And they can be cheaper than PAT tags  
21       and they will start giving you information on  
22       whether this turtle is dead or alive the next day.  
23       So, I'm really, really flabbergasted here to hear  
24       that whoever chose to put PAT tags to assess whether

1 the sea turtle dies out of being caught in a  
2 longline, and they're going to get the information  
3 ten months later you're going to know if it's  
4 indirectly, it stay there in the bottom ten months  
5 and then you will know it died, when you could find  
6 out immediately if you put spot tags or any other  
7 real time satellite tags and you would know that  
8 after a week, it's showing every day consistently  
9 coming up to -- every time the turtle comes out to  
10 breathe, it will send a signal -- or at least once  
11 every two days, depending on the satellite passage,  
12 and you'll get your information much faster and  
13 accurately.

14 And I don't know really why this was  
15 done, what is the purpose. Maybe the purpose of the  
16 study is totally complete different, is not  
17 assessing the mortality. Maybe they want to know,  
18 as Bob said, their migratory routes. But that could  
19 also be achieved by the satellite tag.

20 So, I know PAT's are the last  
21 development, are really fun and everybody wants to  
22 put one of those, but in this case, from my point of  
23 view, seems to be the wrong technology. So, anybody  
24 has an answer for that?

1 UNIDENTIFIED: I would only be able  
2 to give you partial answers. It's been quite a  
3 scientific debate between, you know, the Office of  
4 Protected Resources and different academia,  
5 scientists, and -- you know, Center scientists,  
6 etcetera.

7 But part of the reason is because of  
8 the weather up at the Grand Banks and tagging these  
9 turtles in September and October and trying to get  
10 information in November, December, with really  
11 really bad weather, they're afraid that they  
12 wouldn't get the amount of information that they  
13 wanted.

14 But the three tags that have come up  
15 premature, all three were on semi-control animals,  
16 meaning that they weren't hooked. They were just  
17 lightly entangled. And all three looked like they'd  
18 been having normal dive patterns, etcetera,  
19 etcetera.

20 One of those animals showed some  
21 above sea level high enough that, you know, it looks  
22 like it was caught by a foreign longliner, at least,  
23 you know, for a day down by the Azores. And it's  
24 pretty interesting. But I would not be able to give

1       you a complete enough answer. I could send you to  
2       the people that could.

3               RAMON BONFIL: Well, my suggestion  
4       would be if anybody can take the message, I mean  
5       just ask them to try instead satellite tags. Could  
6       be cheaper, depending which company you buy them  
7       from, and could be giving you the same information  
8       faster. So, that was the first thing.

9               The second reading on the report on  
10       bycatch reporting, the section on -- yeah, reporting  
11       methodology. I noticed that apparently there was a  
12       great breakthrough in reporting and now we're asking  
13       -- starting August 1st, 2001, a total of 20 percent  
14       of the vessels operating in the reef  
15       snapper/grouper, king and Spanish mackerel, and  
16       shark fisheries, most report all the species and  
17       quantities of bycatch that they get and that they  
18       discard.

19              Now, this -- I'm a little bit really  
20       surprised to see that this seems to be the best way  
21       for NMFS to get a hold of how much bycatch is  
22       occurring in those fisheries. Basically we're  
23       asking 20 percent of the boats to write down in a  
24       piece of paper what did you get. We're asking the

1       wolves to take care of the sheep. And I don't want  
2       to insult anybody, and I'm not singling out  
3       fishermen, it's just human nature.

4               Whenever any of us is allowed and can  
5       get away with cheating, we do it. How many of us  
6       park illegally when we need to park illegally and we  
7       try to get away with it. We see that there's no  
8       policeman. Or how many of us don't stop on a yellow  
9       light because we think we're in a hurry and we can  
10      blow the light. I mean, it is human nature, so  
11      please don't take me wrong. I'm not trying to  
12      single you out.

13             To me it's just really surprising  
14      that the best way we can assess what is the bycatch  
15      in a fishery is by asking a fisherman please  
16      voluntarily write down here what did you catch and  
17      you know that down the line this might be used  
18      against you, because we might close areas or we  
19      might do this, but please write it down.

20             My question is, is this the best we  
21      can do, and is there any way -- I don't see here  
22      written anywhere that there's any observer coverage  
23      to control that that 20 percent of logbooks have  
24      been reported properly or anything. So, I'm just

1 really, really surprised.

2 MODERATOR CHRISTOPHER ROGERS: Well,  
3 as we did mention yesterday for the shark fishery,  
4 we had conducted a cooperative observer program due  
5 to decreased participation. We had embarked on a  
6 mandatory observer program. So, hopefully we'll get  
7 more representative data to do this validation.

8 RAMON BONFIL: Yeah, but what about  
9 the other fisheries like the reef fishery, the  
10 snapper/grouper, the king and Spanish mackerel?

11 MODERATOR CHRISTOPHER ROGERS: Well,  
12 to the extent that these individual vessel operators  
13 have shark permits, they're subject to selection for  
14 observer coverage. By virtue of the fisheries that  
15 they're in, they may be reported through several  
16 different logbook programs, but still recording the  
17 information on sharks.

18 So, the fact that they have a permit  
19 means they're issued a logbook of some sort,  
20 depending on the combination of permits they have,  
21 but given that they have a shark permit, they can be  
22 selected for observer coverage to be able to compare  
23 with whatever logbook they're using.

24 RAMON BONFIL: Does that depend on

1       whether they're going on a shark fishing trip or  
2       not?

3                   MODERATOR CHRISTOPHER ROGERS: Well,  
4       when we select someone for observer coverage,  
5       they're required to notify us of the trips that they  
6       intend to take, where they would be fishing, and the  
7       target species and things like that.

8                   So, the nature of the shark fishery  
9       is a little bit more complex in that some cases it  
10      may be a grouper trip or snapper trip, but there is  
11      a potential for some shark sets to be made during  
12      those trips, in which case we would make a decision  
13      to embark an observer.

14                  Okay. We are running out of time.  
15      It's seven minutes after 10:00. I have Jim  
16      Donofrio, Ellen Peel, Mau Claverie, Sonja Fordham,  
17      Mike Leech, Russ Dunn and Dave Wilmot. I think we  
18      can get through this bycatch discussion in the next  
19      15 minutes and then take a break.

20                  UNIDENTIFIED: He didn't say self-  
21      reported data. He said voluntary data. Would the  
22      same thing about the bias, whether it's voluntary or  
23      mandatory to report?

24                  RAMON BONFIL: Yeah, basically, what

1 I'm concerned is that whether you do it -- call it  
2 mandatory or voluntary, if you ask me to go out  
3 fishing and then tell you the truth, you have to  
4 really be trusting me. And that's where the big  
5 question mark comes. I mean, am I really going to  
6 tell you the truth or not? I might tell you yes,  
7 I'm telling you the truth, but might be doing  
8 otherwise on the logbook.

9 UNIDENTIFIED: Well, I don't know  
10 what goes on in Canada, but you all must live  
11 differently from us, because the assumption around  
12 here is that if it's mandatory it's correctly done.  
13 If it's voluntary, it's not correctly done. Is  
14 there something about human nature in Canada than  
15 there is in the United States?

16 RAMON BONFIL: No, my human nature  
17 assertion was not based in Canada. It was based in  
18 Mexico and Canada and other parts of the world where  
19 I have interacted with fishermen. And I said very  
20 clearly I'm not singling out fishermen. I'm just  
21 talking about human nature and you and everybody  
22 here has cheated sometime in the last -- we all do  
23 it when we need to, and it's in our benefit and we  
24 think we can get away with it. And just tell me



1           what prevents somebody from getting away from it.

2                       UNIDENTIFIED: I'm not criticizing  
3           you, I'm being facetious, because I'm always  
4           criticized by saying that mandatory is no better  
5           than voluntary.

6                       MODERATOR CHRISTOPHER ROGERS: I  
7           think we'll reserve the discussion on human nature  
8           to -- after lunch or something.

9                       UNIDENTIFIED: The philosophy  
10          subpanel we're --

11                      MODERATOR CHRISTOPHER ROGERS: The  
12          philosophy subpanel. Okay. I have Jim Donofrio.

13                      JAMES DONOFRIO: Mr. Chairman, first  
14          of all, point of order. I have a major league  
15          objection to the way this panel is being handled  
16          now. In the last couple days there's been outbursts  
17          like that. Many of us raise our hand and wait on  
18          the list patiently to be interrupted by others.

19                      Now, do we need to have a facilitator  
20          again like Jack Dunnigan did years ago, or can we  
21          control this in an orderly fashion? That's one  
22          question.

23                      MODERATOR CHRISTOPHER ROGERS: You  
24          were on the list. Let's go.

1 JAMES DONOFRIO: Okay.

2 MODERATOR CHRISTOPHER ROGERS: Going  
3 through the list. I've got Jim, Ellen --

4 JAMES DONOFRIO: Is there anyone here  
5 --

6 MODERATOR CHRISTOPHER ROGERS:  
7 (Inaudible.)

8 JAMES DONOFRIO: All right.  
9 Regarding the sea turtles, you know, I feel the same  
10 way Joe does. I have thousands of days on the water  
11 as a professional fisherman in my past career, and  
12 many days in the old days when there was lots of  
13 turtles, Glenn. I mean, we saw them. I did a lot  
14 of chumming, did a lot of trolling, a lot of tuna  
15 fishing. Never ever hooked a turtle. I'm not  
16 saying it doesn't happen.

17 Is there someone here that is a  
18 turtle person that has those statistics on  
19 recreational hooked turtles? I mean, I have never  
20 ever heard anybody even coming back to the dock in  
21 all the years say hey, Jim, you know, I hooked a  
22 turtle last night --

23 GLENN DELANEY: Jim, we'll get you  
24 the information.

1 JAMES DONOFRIO: Yeah, I need to see  
2 it.

3 GLENN DELANEY: It's not necessarily  
4 in your region is what we're discussing.

5 JAMES DONOFRIO: Okay. Yeah, well, I  
6 need to see it. That's what I mean. We never --  
7 we've seen a lot of turtles, right? We see them,  
8 but never have hooked one, so --

9 GLENN DELANEY: There's a lot of  
10 interaction.

11 JAMES DONOFRIO: Okay. I want to see  
12 that, thank you.

13 ELLEN PEEL: I couldn't help -- I was  
14 noting the discussion that Nelson led and Joe was  
15 interacting with on how sea turtles impact and  
16 involve all of us. Well, I just want to put on the  
17 table if you think that's involvement in animation,  
18 wait until white marlin, depending on what actions  
19 taken by the Protected Species Office this time next  
20 year or earlier will involve all of us. No doubt.  
21 Whatever the Protected Species Office takes,  
22 whatever recommendation they make, there's likely to  
23 be litigation coming from one source or the other.  
24 And I anticipate and fear that the agency will fill

1       in the -- one way or the other or in both instances  
2       to take some action, of which we will all be  
3       fearfully pondering what that might be.

4               And I can't help but think as we're  
5       looking at those maps now, we may be looking at two  
6       maps, whenever our next meeting is, one on the  
7       targeted recreational fishery and what impact and  
8       what actions the agency may take, and second, the  
9       bycatch map, which certainly then raises the issue,  
10      as Glenn had done, on the southern closures and  
11      heightens the analysis on the white marlin.

12              So, whether we wait 12 months or not,  
13      but no doubt the white marlin issue I think is going  
14      to involve all of us even more than sea turtles in  
15      the discussion and in the impact, unfortunately.

16              CAROL BREWSTER GITES: We'll talk  
17      about that this afternoon.

18              MAUMUS CLAVERIE: I was just curious  
19      that if the presumed mortality on sea turtles with a  
20      puncture wound in the flipper is 27 percent, what is  
21      the presumed mortality for turtles that are hooked  
22      in the throat, the eye, the head, and some of the  
23      places where the mortality is quite likely. And  
24      secondly, if all of these sea turtles are being

1 unhooked by the longliners, why are they required to  
2 carry line clippers? Just curious.

3 MODERATOR CHRISTOPHER ROGERS: Well,  
4 the concern was that if a turtle was too large to  
5 get into the boat to effectively dehook it, that the  
6 idea would be to cut the line as close to the hook  
7 as possible, but without taking the turtle out of  
8 the water.

9 With respect to mortality, again,  
10 there is a whole treatment of mortality and based on  
11 the nature of the interaction, the nature of the  
12 efforts made to disentangle, dehook the turtle, I  
13 think there was certainly a higher mortality  
14 associated with deeply hooked turtles, whether they  
15 were flipper hooked or hooked in a beak or deeply  
16 ingested, the hook -- there were different mortality  
17 rates.

18 So, again, that is detailed in the  
19 biological opinion. We can get that information to  
20 you. I don't know the figures off my head, but --

21 GLENN DELANEY: 42 percent ingested.

22 MODERATOR CHRISTOPHER ROGERS: I know  
23 it was above 27 percent for deeply hooked turtles.

24 MAUMUS CLAVERIE: So, it basically

1 starts at 27 and goes up from there?

2 GLENN DELANEY: That's correct.

3 MODERATOR CHRISTOPHER ROGERS: Okay.

4 Sonja Fordham.

5 SONJA FORDHAM: Sonja Fordham, the  
6 Ocean Conservancy. First, I resent Ramon singling  
7 me out. The light was yellow. And I hope you'll  
8 consider having one of those foam sharks as a door  
9 prize for the next meeting, because I really need  
10 one for my living room.

11 But now to get critical and  
12 unpleasant, I wanted to turn to sharks and the shark  
13 bycatch section in the SAFE Report, and I have a  
14 number of comments and again, they're along the same  
15 lines of what I said yesterday, that there's a lot  
16 of information about what's happening. There's a  
17 lot of troubling data, and the same -- some of the  
18 same problems we've been looking at year after year,  
19 and now there's more stated concern, but there's  
20 still no plan. I can't find any tangible ideas of  
21 how to avoid or reduce, much less minimize bycatch  
22 or bycatch mortality sharks in other fisheries.

23 And I just am very frustrated because  
24 I feel like -- I'll wait till they're done talking.

1       Thank you. I'm very frustrated. I feel like we do  
2       this every year. And I read the same information  
3       and we have maybe a few more years of data, but no  
4       tangible measures.

5               So, on page 8 dash 5, there's a  
6       statement about NMFS supporting the development of  
7       the ASMFC Shark Plan, and just on that statement I  
8       would hope that considering yesterday's discussion  
9       you could beef up that language that's a little less  
10      aggressive than I would hope.

11             But more importantly, there's no  
12      mention of supporting or encouraging any shark  
13      conservation action by the Gulf States Marine  
14      Fisheries Commission and yet the two examples for  
15      really problematic fisheries in terms of shark  
16      bycatch are centered in the Gulf. So, I really urge  
17      you to step up those efforts and think about what we  
18      could do with the Gulf States Commission.

19             On the menhaden purse seine fishery,  
20      as recent as '95, it says there were 30,000 mostly  
21      black-tip sharks, and 75 percent of them are dead.  
22      That's really alarming and it talks about these new  
23      bycatch reduction devices, but there's no -- it  
24      sounds like we're hopeful but there's no data to

1 show that they're working.

2 And then there's -- I don't know if  
3 you know, but there's no -- nothing in the SAFE  
4 Report that says that we're going to test to see if  
5 they're working, or any plans whatsoever to see how  
6 that's working. The SAFE Report does say that they  
7 know the worst months are April and May, and there  
8 are no standards for bycatch reduction and no  
9 reporting requirements and yet it doesn't say so  
10 therefore we are going to move forward with  
11 considering standards and methods to reduce bycatch  
12 or maybe consider time area closures for April and  
13 May.

14 So, again, it's the same problem  
15 where it seems like there's an obvious course of  
16 action, but there's nothing laid out, at least in  
17 these documents.

18 On the shrimp trawl section for  
19 shrimp trawl bycatch of sharks, several millions of  
20 sharks taken in recent years, and again it says  
21 TED's have probably reduced this. It looks like the  
22 numbers are down, but no clear indication of whether  
23 we're going to study that or look into it. So, it's  
24 -- we can be a little more certain. It doesn't say



1 anything about where the data is after 1997. And it  
2 does look from this table that bycatch is down but  
3 still hundreds of thousands of sharks are being  
4 taken.

5 I see this as a really serious  
6 problem that needs again a strategy for action, and  
7 real immediate attention. And then the table, 8.5.  
8 I looked through it and there are a number of  
9 proposed actions, and some of them actually do deal  
10 with reducing bycatch or avoiding bycatch, but  
11 they're for other species, so I couldn't find any  
12 actions that have to do with sharks that do anything  
13 more than assess the affects of bycatch on the  
14 population or improve the knowledge or research on  
15 discard mortality -- post-release mortality. It's  
16 all about improving the data, and yet you have some  
17 data here and they just continue, they're not being  
18 addressed. So, again, the table has no actions, as  
19 far as I can tell, to reduce or much less minimize  
20 sharks -- shark bycatch.

21 So, I think overall I certainly  
22 recognize that the shark people at HMS are busy with  
23 litigation and other things, but we have known about  
24 at least these two particular problems for a number

1 of years, and we've known about the requirements for  
2 bycatch avoidance, minimization and reduction under  
3 the SFA for many years. So, and yet this is another  
4 SAFE Report that has no stated strategy for how  
5 we're going to do that. And I think it's really  
6 becoming urgent and needs to be pushed up higher on  
7 the priority list. Thank you.

8 MICHAEL LEECH: In the interest of  
9 conserving time, I pass.

10 DAVID WILMOT: I'll pass, as well,  
11 but Russ was on the list before me. Then I'll pass.

12 RUSSEL DUNN: Just a couple -- maybe  
13 we were both supposed to be there. But my comments  
14 will be short. First, let me reiterate without  
15 going into it, what Sonja said. We need to see a  
16 lot more strategic planning and plans of action  
17 rather than simply reviews of what has been done.

18 And one sort of process comment, and  
19 I wanted to actually make this yesterday during  
20 Pat's bluefin tuna. It would really be helpful for  
21 the panel to get complicated analyses like what Pat  
22 did yesterday ahead of time so that we can look at  
23 it and understand it, a priori.

24 And related to that, when I look

1 through the bycatch section and the Table 8.5, there  
2 are a few key items that would have been really  
3 helpful to have, such as the studies on post-release  
4 mortality on sharks and marlin and then there was  
5 another post-release mortality study on just marlin.  
6 And I think those are obviously very relevant  
7 documents through most of our discussion. And if we  
8 had those, we could discuss the results of them and  
9 it would be much more productive for the panel as a  
10 whole. Thanks.

11 (Nine minutes of blank tape.)

12 MODERATOR CHRISTOPHER ROGERS: Okay,  
13 folks. We still have a lot of ground to cover, so  
14 please let's get started. We've had a couple of  
15 requests during the break. One request was by Rich  
16 Blately, is that how you pronounce it? Where's  
17 Rich?

18 RICHARD BLAKNEY (No microphone):  
19 Blakney, B-L-A-K-N-E-Y.

20 MODERATOR CHRISTOPHER ROGERS: Oh, N-  
21 E-Y, okay. He just wanted to quickly clarify there  
22 was some concern last night about his organization's  
23 position, some questions that Glenn had asked about  
24 last night. But very quickly, he was going to let

1       us know, he had some communication with his  
2       organization.

3                   RICHARD BLAKNEY:   Good morning.  
4       Thank you again for listening to my point of view.  
5       After Glenn's question or statement yesterday, I got  
6       in touch with Billy Sheparliss this morning at 4:30  
7       in the morning, woke him up, and he -- the long and  
8       the short of it, explained to me what he felt was  
9       the occurrences that happened at that meeting at the  
10      New England Aquarium last week, eight or nine days  
11      ago.

12                   They have asked me -- he has sent me  
13      over a letter that he has written and signed  
14      himself. They have asked me not to read it because  
15      of time constraints. The long and the short of it  
16      is Billy Sheparliss on behalf of our association was  
17      favorable for doing or using the seiners for bluefin  
18      tuna science, but gave no indication as to his  
19      support for them starting the fishing season early.

20                   It's explained in this letter. I've  
21      made copies. I'll leave them over there with Chris.  
22      I would appreciate you taking the -- you know, time  
23      to read it, and I think you'll find it informative.

24                   And then one other small thing is

1       just yesterday and today talking to the people that  
2       I've been involved with, there appears to be -- you  
3       know, and they asked me about this obvious apparent  
4       conflict between our organization and East Coast  
5       Tuna.

6                       And I just want to make -- put it to  
7       record that our association which was our members,  
8       which were very active financially and legislatively  
9       and morally with East Coast Tuna, four years  
10      supporting the seiners, the general category and the  
11      harpooners, chose after a decision was made by East  
12      Coast Tuna not to support our position, to leave  
13      East Coast Tuna and form our own association.

14                      We most enthusiastically respect the  
15      work that Rich Ruais does and the position of East  
16      Coast Tuna. Unfortunately, we do not always agree  
17      on some of their positions, on the issues of the  
18      seiners and potentially general category. We thank  
19      him for his hard work, which benefits our  
20      association and our members in getting the harpoon  
21      additional quota last year and believe me, his  
22      efforts don't go unnoticed. There is always an open  
23      invitation for him to contact us, to talk to us  
24      about issues. We're willing to discuss them, not

1 necessarily always agree.

2 The whole issue has been very tough  
3 on all of us. It's been a lose/lose situation from  
4 the very beginning and it has stressed friendships  
5 and personal relationships and just about everything  
6 that's involved in this, and I would hope  
7 personally, and Rich knows I feel this because we  
8 have talked together many times by ourselves, that  
9 at some point this can all get resolved so we can  
10 all work for the common good of the bluefin fishery.  
11 Thank you.

12 UNIDENTIFIED: (Inaudible.)

13 MODERATOR CHRISTOPHER ROGERS (No  
14 microphone): Could I have a show of hands  
15 (inaudible).

16 GAIL JOHNSON: Thank you. First of  
17 all, just a quick question on the -- well, actually  
18 that's later on this afternoon, so I'll wait. To  
19 Sonja, who was talking about the shark interactions,  
20 one thing that will help a lot is however many hooks  
21 were set in the Florida East Coast area and at some  
22 times during the Charleston Bump, the shark bycatch  
23 will be reduced by that number of hooks.

24 But my point is about bycatch and

1       that kind of fishy definition of what bycatch is.  
2       Now there is a recreational fishery for swordfish in  
3       that nursery area, which is closed to commercial  
4       longlining, and we need to understand and live under  
5       a definition to my mind, if you're fishing in a  
6       nursery area that is a closed area and you catch  
7       fish, unless you take those home to eat, or unless  
8       you sell them because you have a commercial hand  
9       gear permit, those fish are bycatch.

10               And that brings back to the  
11       monitoring thing again. Nelson mentioned that we  
12       have really messed up our index of small fish, kind  
13       of hamstrung the SCRS about knowing in the nursery  
14       area just when another year class of small fish is  
15       coming through. Somehow this has to all get  
16       together. We're going to have bycatch that probably  
17       will have no knowledge about, and we need the  
18       knowledge that we used to get from the commercial  
19       fleet on what's there and how many are there.

20               GLENN DELANEY: Thank you very much.  
21       I appreciate it. I wanted to revisit the discussion  
22       you had with Dave Wilmot earlier regarding --  
23       establishing your -- stating your vision more  
24       clearly for bycatch reduction. And I'd just like to

1       give my own observation of that.

2               In my opinion, any stated vision will  
3       never be adequate for the environmental industry  
4       until there are no fishermen on the ocean. The more  
5       rigid you state the goals of your bycatch reduction  
6       vision, the more successfully you will be sued.

7               I don't think we should be fooled by  
8       the nice-sounding rhetoric, as some perhaps in the  
9       recreational community have been. You will not  
10      receive constructive input on longline fishing in my  
11      opinion from the environmental industry. I think  
12      this was revealed, particularly David's statements  
13      and others, revealed their true stripes on the west  
14      coast recently, where their constructive input --

15              MODERATOR CHRISTOPHER ROGERS (No  
16      microphone): Can we focus on your concerns before  
17      (inaudible) feelings about their concerns?

18              GLENN DELANEY: The constructive  
19      input was to eliminate longline. I was really  
20      shocked by the words spoken because, you know, I too  
21      really wanted to believe that David was interested  
22      in fishery conservation, not fishery extermination.  
23      But I think we have to accept that reality, that the  
24      goals of fishery conservation and management and



1 bycatch reduction that you may hold, which are to  
2 minimize bycatch to the extent practicable, while --  
3 and what's inherent in at least my mind anyway, and  
4 I think the agency's -- inherent in that goal is to  
5 also maintain viable commercial fisheries to the  
6 extent practicable, and that there is that balance  
7 to be achieved. And I don't believe the input that  
8 you're going to receive from that sector is  
9 consistent with that.

10 So, there is no constructive input to  
11 be had from that sector in that regard, because  
12 there is no room for a fishery to exist in their  
13 definition of bycatch reduction. Thank you.

14 MODERATOR CHRISTOPHER ROGERS: Okay.  
15 Just to sum up the discussion, I do think it was a  
16 fair comment to see a little bit more specificity in  
17 our view as a Division in dealing with bycatch  
18 concerns, recognizing it is multiple -- a multi-  
19 objective situation that we do have a responsibility  
20 to maintain viable commercial fisheries under the  
21 Magnuson Act while minimizing bycatch again to the  
22 extent practicable, as Carol had intervened before,  
23 that in some senses bycatch that cannot be avoided,  
24 we can take steps to minimize mortality, so we will

1        endeavor to have a more robust discussion in next  
2        year's SAFE Report, not only with respect to  
3        evaluations of measures already taken, but also with  
4        the sort of characterization of where our bycatch  
5        reduction objectives are derived. As I said before,  
6        whether it's derived from a biological opinion, an  
7        ICCAT recommendation, a general Magnuson Act  
8        conservation goal, or what have you.

9                I do believe that it was a fair  
10       remark on the part of Dave to sort of bring this all  
11       together as opposed to leaving it somewhat nebulous  
12       as the way it is that we have multiple objectives  
13       and we're trying to meet them all at the same time.  
14       So, we will try to do a better job at characterizing  
15       where we're going, what we've done so far, and how  
16       effective we believe it has been.

17               Russ Nelson, last comment on bycatch.

18               RUSSELL NELSON: Thank you. And I  
19       only am brought to say this because of Glenn's  
20       remarks last night about how every remark here at  
21       the table has to be -- one has to be responsible for  
22       it.

23               I have been involved working with the  
24       environmental groups on the west coast, the

1 development of the Highly Migratory Species plan for  
2 the Pacific. Contrary to what Glenn said, no one  
3 has pushed there to eliminate any longline fishery.

4 Within the EEZ of the Pacific, there  
5 is no allowable longline fishery now, and a number  
6 of groups have advocated that that -- no longline  
7 fishery be allowed until there is better  
8 understanding of the status of stocks and levels of  
9 the stocks relative to overfishing and the impacts  
10 of that longline.

11 There is a longline fleet fishing out  
12 of the west coast on the high seas, and to my  
13 knowledge neither the Ocean Wildlife Campaign or the  
14 Billfish Foundation, or any other groups out there,  
15 have advocated to eliminate that fishery, but rather  
16 have advocated that that fishery be required to  
17 carry observers, be subject to the vessel monitoring  
18 devices and the regulations to reduce bycatch that  
19 are -- have been imposed on the Hawaiian fleet. But  
20 no one has moved out there to eliminate any longline  
21 fishery.

22 GLENN DELANEY: Well, Russ, in all  
23 fairness, not to be argumentative, I just read what  
24 I read. And the quotes were around Dave Wilmot's

1 statements, which were to start here and move for  
2 the elimination of longline worldwide, and if you  
3 were misquoted, you know, I apologize on behalf of  
4 whatever papers I was reading, and I'd be glad to  
5 try to dig those back out of the Internet and those  
6 sitting on my desk.

7 But that was the unequivocal message  
8 being stated, get rid of longlining; and I was quite  
9 shocked by that, because I didn't think that that's  
10 the type of perspective we were dealing with here,  
11 but it's not an unusual perspective. There's others  
12 at the table here who share it.

13 MODERATOR CHRISTOPHER ROGERS: All  
14 right. The agency's position is not to eliminate  
15 longlining. I think that's clear from the FMP  
16 development. Certainly there are problems that we  
17 try and address in longlining. I don't think  
18 there's any useful discussion that could be had on  
19 whether longlining should be eliminated or should  
20 not to go further with that. We need to move on to  
21 some other issues.

22 DAVID WILMOT: Chris, but in all  
23 fairness, I have a right to let the folks around the  
24 table who aren't as familiar with Glenn's

1 misinformation as some of the rest of us. I don't  
2 know what quote you're referring to, Glenn. I have  
3 been misquoted. I'm sure I'll be misquoted many  
4 times in the past.

5 The Ocean Wildlife Campaign's  
6 position around this table has never been the  
7 elimination of longlining. I suspect it never will  
8 be. Our motivations have been very clear. I think  
9 I do a pretty good job of articulating what we're  
10 trying to accomplish. I don't have to couch too  
11 many things -- what we're trying to get.

12 Our goals were the closed areas,  
13 etcetera. But no, we've not been pushing for the  
14 elimination of longlining worldwide here or anywhere  
15 else.

16 GLENN DELANEY: I'd be glad to  
17 present those documents to you so you could get back  
18 in touch with the press and get your statements  
19 corrected.

20 MODERATOR CHRISTOPHER ROGERS:  
21 (Inaudible) discussion of bycatch for this year's  
22 meeting. I'm sure we'll have more to report next  
23 year and throughout the year. Certainly we will  
24 endeavor to try to communicate with the panel,

1 through whatever means, in the intervening period to  
2 the next meeting.

3 And certainly, as has been mentioned  
4 many times on several issues, we'll try to get more  
5 documents in the hands of the panel meeting -- into  
6 the panel members' hands before the meeting with as  
7 much lead time as possible.

8 I did have a request to move directly  
9 into swordfish, because of several person's  
10 schedules. So, hearing -- if there's no objection,  
11 we'll just do a switch there between what had been  
12 the BAYS tunas and swordfish.

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13  
14 SWORDFISH - LIMITED ACCESS, ASSESSMENT, MANAGEMENT

15 MODERATOR CHRISTOPHER ROGERS: So, we  
16 did have a brief presentation, just giving you some  
17 background on the limited access program with  
18 respect to the swordfish fishery, and just a little  
19 update on this year's upcoming swordfish assessment.

20 We've already had some discussion on  
21 the management issues, particularly with respect to  
22 recreational fishery monitoring, so we'll go through  
23 a quick presentation here and then open it up for  
24 discussion on swordfish issues.

1                   There we go. Try the other button  
2                   there. We seem to have lost our light source. Here  
3                   it comes.

4                   CAROL BREWSTER GITES: Hi again.  
5                   Moving onto swordfish. We did a few things last  
6                   year, in September, we added in almost 550 metric  
7                   tons dressed weight of underharvested swordfish to  
8                   the 2001 quota. We also have a couple of proposed  
9                   rules dealing with swordfish that we are hoping to  
10                  finalize eventually.

11                 Some of that -- the first proposed  
12                 rules proposes transferring the 400 metric tons  
13                 whole weight to Japan, creating a reserve to cover  
14                 any future overharvest or excess dead discards. In  
15                 maintaining the South Atlantic quota, the second  
16                 proposed rule, has the call-in system to report  
17                 recreational catch. This is the same proposed rule  
18                 that all the billfish stuff is in. The recreational  
19                 bag limit of one swordfish per vessel per trip.  
20                 Clarifying what the authorized gear types are in the  
21                 recreational fishery and starting an outreach  
22                 program to promote the use of circle hooks  
23                 recreationally.

24                 We do have a couple questions for the

1 panel regarding quota allocation. Currently the  
2 landings by incidental limited access permit holders  
3 and by recreational fishermen are counted against an  
4 incidental quota of 300 metric tons dressed weight.  
5 There are actually very few landings actually  
6 reported in this incidental quota or counted from  
7 the recreational fishery. So, we were wondering how  
8 the panel would think about a regulatory amendment  
9 to reallocate some of that quota to the directed  
10 quota, and we were also wondering if there should be  
11 a recreational quota set-aside, so that would be  
12 changing -- so you'd have an incidental quota, the  
13 directed quota and a recreational quota.

14 We also have some limited access  
15 issues. For those of you who don't know, we  
16 implemented limited access for swordfish, sharks and  
17 the tuna longline category back in 1999. Since  
18 then, the number of permit holders in essentially  
19 one year decreased by 26 percent.

20 The greatest decrease was the  
21 incidental swordfish permit holders. That decreased  
22 by 46 percent. The shark incidental permit holders  
23 also decreased, but that could be correlated because  
24 you are required to have both a shark and a tuna



1       longline permit if you have a swordfish incidental  
2       or directed.

3               The decrease seems to be constant  
4       across the states, so we don't think -- we're not  
5       sure, all of this is a lot of guesswork at this  
6       point, we don't think it's because of the closed  
7       areas, because then we would see the largest  
8       decreases in those states right next to the closed  
9       areas. But we're not seeing that. The decrease is  
10      spread throughout.

11             We do have a couple possible reasons  
12      that we're considering, but we're looking for more  
13      things, things we might have overlooked. In order  
14      to maintain your permit, you have to renew it within  
15      one year of the expiration, thinking well maybe some  
16      people have been unaware of that despite our  
17      reminders and the expiration dates on the permits.

18             It could be because of a lag in  
19      renewals, but it seems that it's a large enough  
20      decrease that that's not too likely. It could be  
21      that some of the fishermen have left the fishery for  
22      other reasons and have been unable to find buyers of  
23      the permits because of the upgrading restrictions.

24             It could be because some of the

1 people did not want to be stuck with the tuna  
2 longline category permit and wanted to move into  
3 other categories such as the general or the charter  
4 headboat, which they can't hold if they held a  
5 longline.

6 When we implemented limited access,  
7 however, we were aware of that problem and we issued  
8 exempted fishing permits for those people for a  
9 couple of years, and the interest in those exempted  
10 fishing permits decreased over time. We had, I  
11 think, about 40 the first year, ten the second and  
12 two applications the following year, and we decided  
13 it wasn't a needed thing anymore. But we are  
14 looking for input from the Advisory Panel as to why  
15 we have this decrease in limited access permits and  
16 how we can fix it if it needs to be fixed.

17 MODERATOR CHRISTOPHER ROGERS: Again,  
18 the issues that we seek comment on from the panel  
19 are what's going on with the limited access  
20 programs. Is it some artifact of something that  
21 needs to be fixed or just attrition that doesn't  
22 need to be addressed. With respect to the  
23 recreational fisheries monitoring, we did have  
24 several proposed rules. And also the issue of

1       whether a quota should be established for the  
2       recreational fishery. With respect to incidental  
3       catch, the catch limits apply to those swordfish  
4       permit holders with the incidental catch as opposed  
5       to directed, is two swordfish per trip, and whether  
6       or not that is affecting the discards in the fishery  
7       and whether or not the quota currently allocated for  
8       that sector the incidental permit holders of 300  
9       metric tons per year is necessary, given the makeup  
10      of the fishery and that might be reallocated.

11               So, several issues that are -- have  
12      either been part of proposed rules that we'll take  
13      comment on, or that have not yet been proposed, but  
14      certainly we see them as emerging issues that we're  
15      hopeful to get some input on.

16               I have Jim Donofrio, Mau Claverie,  
17      Russ Nelson, Wayne Lee, Ellen Peel. So, we'll start  
18      with Jim. You guys are going too fast for me here.  
19      Wayne Lee, Ellen, Willie, Mike Leech and Bob. Okay.  
20      And we will hold to this order. So, if you have a  
21      question for somebody else, they can hold their  
22      response to your question until their turn comes.  
23      So, Jim Donofrio.

24               JAMES DONOFRIO: Thank you, Mr.

1 Chairman. Regarding the question that was raised  
2 here by the agency on the -- I guess simplifying the  
3 category here, I think the hand gear categories,  
4 harpoon, hand line, and rod and reel recreational,  
5 rod and reel commercial, can all be put under one.  
6 To me, see -- I could see that's just one quota.  
7 Could be one quota. And the difference would be is  
8 that there would be no recreational sale, of course,  
9 of recreational caught swordfish, and we know that's  
10 an enforcement problem, but -- and may be an  
11 education situation on our side that we'd have to  
12 do. But I see that as an enforcement problem.

13 This may be an opportunity, also, to  
14 create the tags that we've asked for. It's such a  
15 rare fishery. I mean, I know they're available now.  
16 The fish are available on a rod and reel, more so  
17 than they have been in the past ten years or so.  
18 But it's not like anybody's going to deckload  
19 swordfish on a recreational boat fishing at night.  
20 You may have, you know, if you're real lucky you'll  
21 get three fish. But one and two fish are quite  
22 common in a lot of places.

23 So, this may be that type of fishery  
24 where they're required to have a landing possession

1 tag. You know, something you may want to consider  
2 that we can talk about in one of our other  
3 workshops. But you know, we are definitely opposed  
4 to the proposed bag limit of one fish. There is no  
5 scientific justification for the one fish bag limit.

6 And I understand that some people are  
7 using that to say well, more than one you're going  
8 to sell it. That's not true. I can tell you right  
9 now if I caught three tonight, they'd be chopped up  
10 and put in the freezer, and I would love to have  
11 three swordfish in my freezer right now. And I know  
12 a lot of people that would.

13 One of the other things is I'd like  
14 to see the agency continue to at least make the hand  
15 gear permits available, harpoon, hand line, rod and  
16 reel commercially, available to encourage this  
17 fishery to develop as we see the resource rebounding  
18 in our own EEZ, and make it available to those gears  
19 that traditionally were fishing prior to let's say  
20 the late '60s.

21 And also, just for the record, I  
22 would like to say that fishermen that are using rod  
23 and reels and boats that we can use in commercial or  
24 recreational fishing that are selling illegal fish,

1       they're not recreational fishermen that are selling  
2       illegal fish. They're not commercial fishermen  
3       either that are selling illegal fish.

4               These people are pirates. This is  
5       pirate fishing, just like -- you know, we have lots  
6       of titles and names at ICCAT, IUU fishing. I mean  
7       we need to come up with a name because we don't want  
8       to be pointing fingers, and I'm sure the commercial  
9       guys don't want to be calling their guys.

10              They're not really commercial  
11       fishermen who are reporting. These are people --  
12       these are pirates working outside the system.  
13       They're not claiming income tax. They're not  
14       reporting their landings. As you know, Chris, we  
15       have the same problem in the northeast right now on  
16       tautog. We have a pirate fishery that's going on.  
17       We have it on the west coast with rockfish.

18              These are not commercial. They're  
19       not recreational. These are pirates. So, I mean, I  
20       want that on the record as that's how I recognize  
21       them and I think we should all recognize them as  
22       such, because they're not welcomed in our sector,  
23       and I'm sure the commercial sector does not welcome  
24       them also. Thank you.

1                   MAUMUS CLAVERIE: Yeah, in response  
2                   to your question, from a management perspective,  
3                   quotas and seasons are the worst management measures  
4                   to use on a recreational fishery, and I would  
5                   suggest that we do as happened in the Billfish Plan,  
6                   and that is -- or the amendment, and that is use  
7                   minimum size as a preferred management measure on  
8                   the recreational swordfish fishery.

9                   RUSSELL NELSON: Thank you, Chris. I  
10                  think, you know, you guys are well aware that one of  
11                  the values of having an Advisory Panel and having us  
12                  here is sometimes that we have the opportunity to  
13                  run interference between the agency and our  
14                  constituents, who are often somewhat less informed  
15                  than we would all like them to be, and we act a  
16                  little more strongly to things. And I think the  
17                  proposals for swordfish is an example of that, where  
18                  it would probably have been a better idea to come  
19                  through the AP before floating these and stirring  
20                  everybody up. Nevertheless, we'll continue to try  
21                  to provide our role for you in that way.

22                  The sales problem in Florida, I think  
23                  I talked about it briefly the other day. You just  
24                  need to coordinate with the state. A lot of that is

1       frankly legal sales under Florida law, and that  
2       would simply be a matter of getting them to put in  
3       place the requirement for the federal licenses to  
4       sell and my understanding is the state's ready and  
5       willing to do that.

6               Frankly, some of the other folks you  
7       heard from at the hearing and down in Florida were  
8       -- Jim's right, the people who were clamoring and  
9       demanding their right to sell swordfish, a lot of  
10      them are the same guys who are taking -- are still  
11      taking sailfish to the back door of the restaurants  
12      and selling them. And that's -- pirates is probably  
13      a reasonable appellation for those guys, and that is  
14      going to be an enforcement problem.

15             I too don't see or at least perhaps  
16      don't understand or have not seen a real explication  
17      of the need for a bag limit. In my experience, a  
18      recreational bag limit is needed when you have to  
19      control the total harvest, or perhaps even if you're  
20      not trying to control the total harvest, when you  
21      have got a migratory species that moves in clusters,  
22      and you're trying to spread the harvest out to as  
23      many possible people, so the first folks on the  
24      school don't get them all. But in this case, our



1        quota hasn't been reached. We haven't been taking  
2        what ICCAT has given us.

3                You have a recreational fishery which  
4        did exist in the past, as Mike Leech mentioned the  
5        other day, that disappeared at least -- let me say  
6        in the eyes of the people who were participating it,  
7        disappeared because the fishery became overfished.  
8        And I think that's the position that was taken by  
9        the South Atlantic Council years ago and the agency,  
10       and ICCAT, that that fishery had been overfished.  
11       Stocks declined and the fish weren't available. Now  
12       we have a recovery plan in place, the recreational  
13       anglers in Florida and elsewhere are seeing  
14       increased availability.

15               But again, I haven't heard a real  
16       reason why the bag limit should be put in place.  
17       Reporting, absolutely. We need to have reporting.  
18       We need to have an accurate record of these catches.  
19       We need to be able to track them, and with reference  
20       to the total U.S. harvest, in reference to ICCAT,  
21       and frankly it's in the benefit of the recreational  
22       sector to be able to catch these -- track these  
23       fishes, too.

24               I think, though, you've heard our --

1 well, at least our concern about the accuracy of the  
2 call-in system, and I think frankly, particularly  
3 proposing a bag limit and a call-in system at the  
4 same time may have even compounded the problems with  
5 that.

6 Jim mentioned tags. I think that's a  
7 reasonable approach. I know you all are concerned  
8 and I heard Jill mentioned the other day concern  
9 about costs -- and Jack, maybe this is something you  
10 can figure out, but I can remember my experience  
11 with the Councils coming up with a limited entry  
12 plan or a new permitting plan for the region to take  
13 on, which might have involved pouring through 3 or  
14 4,000 applications of catch histories and issuing  
15 licenses. I never heard a Regional Office say well,  
16 we can't do that because of the cost. So, maybe  
17 Chris just needs to get some more money into his  
18 program or something. But what I know, the tags  
19 used in Florida for tarpon cost 22 cents a piece.  
20 And I think that's -- they're probably ordering  
21 about 1500 a year. And something like that is just  
22 what you could use with swordfish.

23 Tell people that if they want to keep  
24 a fish, they've got to have a tag. They've got to

1 report on what they caught, approximate size of it,  
2 when they caught it, tell them that they've got to  
3 send in their reports or they're not eligible to get  
4 another tag, and make the tags expire in a year.

5 Swordfish is -- unlike most recreational fishes, as  
6 Jim said, if he caught three he'd chop them all up  
7 and freeze them, and it sort of is a commodity. I  
8 don't think anglers would flinch from paying an  
9 administrative fee to get tags, if you could  
10 purchase them. But something other than a call-in  
11 system I think is warranted, and certainly the  
12 reporting is warranted.

13 As I can't see any rationale for  
14 imposing a bag limit, I can't see a rationale for  
15 moving quota from the incidental category to the  
16 directed category when there doesn't appear to be a  
17 real need for that.

18 And I hadn't thought it through. I  
19 don't know. Maybe Jim's idea about maintaining the  
20 incidental category as a catch-all for all the  
21 commercial and recreational catches under hand gear  
22 would be reasonable.

23 But I think finally and again I  
24 revert to the advice I heard Glenn give us the other

1 day was that we have not been meeting our quota.  
2 There is one sector in this fishery now that appears  
3 to be growing in response to the increased  
4 distribution and abundance of those stocks, and that  
5 is the small hand gear fishery, recreational, small  
6 scale commercial. I think imposing limits on that  
7 fishery now would not only be unwise, because it  
8 would not allow us to determine what that universe  
9 is, and be able to have a good idea of who is doing  
10 what so in the future regulations that might bring  
11 us towards allocation or might bring us towards  
12 limits on trips or bag limits would have a basis in  
13 fact. We would know exactly what those limits were  
14 doing to people.

15 I think we need to see how that  
16 universe develops and again I think that if we were  
17 to now impose arbitrary limits on that harvest,  
18 while the U.S. has not been reaching its total  
19 quota, we would in fact be interfering with U.S.  
20 fisher's right under the Act to have a reasonable  
21 opportunity to take the number of fish that are  
22 being allocated to us by ICCAT.

23 WAYNE LEE: Thank you, Mr. Chairman.  
24 The issue that I have, number one, I didn't have an

1 opportunity to really research it and so I apologize  
2 in advance, but the issue was brought to me by a  
3 fisherman, and it was -- is it any way that we can  
4 increase the incidental catch from two up to five or  
5 to some other number. His thoughts were that two  
6 fish was a little bit low. And I know in the trawl  
7 fishery, as I recall, I think somewhere in the SAFE  
8 Report there's a higher number of fish that are  
9 allowed. But I think his point was we're not  
10 reaching the incidental quota, that apparently there  
11 are times when two is not enough that there's  
12 discharge -- I mean, there's fish that are thrown  
13 over that are wasted. And I don't know whether  
14 that's appropriate. I'm sure you all did a lot of  
15 analysis to come up with the two fish for  
16 incidental, but I would like to put that on record  
17 as an issue for you all to take a look at.

18 CAROL BREWSTER GITES: That is one of  
19 the issues that we do plan on looking at in the  
20 future, how effective the incidental catch limits  
21 are for both sharks and swordfish. Because as you  
22 say, we don't want to increase bycatch because of  
23 that, but we do want to still maintain that level of  
24 incidental versus targeted fishing.

1                   ELLEN PEEL: You've received our  
2                   written comments. I'll touch on a few of those.  
3                   However, in the rationale put forward for this rule  
4                   and some of the comments made, and now what I see as  
5                   a new addition, you put it up as a question you want  
6                   us to now add additional comments to, trouble me and  
7                   let me explain.

8                   At the Fort Lauderdale meeting, it  
9                   was said that you don't want to limit participate in  
10                  the fishery, in the recreational swordfish fishery.  
11                  And I raised the question that would not a bag limit  
12                  limit that?

13                  You also say that the rationale in  
14                  writing was to provide a means to access impacts by  
15                  the recreational fishery. And of course we asked  
16                  would not a monitoring system do that. Yet we don't  
17                  think the particular phone-in system would provide  
18                  the best means, because it truly is a summary of  
19                  what those that want to tell you on the phone will  
20                  tell you.

21                  At the Fort Lauderdale meeting, there  
22                  was a great deal, it was certainly the most  
23                  animated, hostile meeting I've been to since the old  
24                  bluefin meetings years ago up here. But there were

1 anglers in the crowd. There were commercial guys in  
2 the crowd. And there was a hybrid, a large hybrid  
3 of both.

4 Some commercial guys urged everyone  
5 in the room that were anglers not to report a thing,  
6 because it would be used against them. There was  
7 fear expressed that there will be an allocation put  
8 upon you very soon. Don't you dare. This bag limit  
9 is merely a step toward that direction.

10 Well, now the question you're asking  
11 us today, of which they're going to probably turn  
12 around and hand your head to you is we told you so,  
13 here they are already considering an allocation,  
14 when they haven't done a job on assessing the  
15 impact, whether it's a false reading based on a bag  
16 limit, based on whatever, or whether, you know, it's  
17 from a monitoring system.

18 And when I say a bag limit, based on  
19 whatever, we all have to choose our words carefully  
20 and we all try to. But it was stated at that  
21 meeting that because the commercial industry gets  
22 two fish under their incidental category, not the  
23 directed category, but because the commercials get  
24 two fish as an incidental it seems only fair that

1 the recs get one. And that was not a good  
2 statement, nor a good rationale upon which to base a  
3 bag limit. And you know, it certainly didn't sit  
4 well with any members of the audience.

5 Now, having said all that, we think  
6 there's a better way to monitor and we certainly  
7 wholeheartedly support monitoring and the need for  
8 it, not only from ICCAT but from the status of the  
9 stocks.

10 We don't want to see illegal fishing.  
11 We think there's a lot of -- maybe I shouldn't say a  
12 lot, but there are illegal sales, and we certainly  
13 read from this proposed regulation that part of it  
14 was that you weren't grabbing a hold of that  
15 enforcement issue, and that that is something that  
16 the agency, the Coast Guard, needs to look into.  
17 There are illegal sales of swordfish, just as there  
18 are sailfish in South Florida.

19 Now, having said all that, and  
20 wanting to make sure that the recreational community  
21 isn't penalized, and knowing that the quota hasn't  
22 been caught, I too question why do you want to  
23 transfer, and why are you establishing a quota  
24 already.



1                   If there is scientific justification  
2           that a limit -- you know, would continue the  
3           recovery in a precautionary manner, then that can be  
4           supported. But I think there needs to be more  
5           assessment on the agency's part on the rationale  
6           that's put forth for this, and certainly before you  
7           turn right around and put an allocation back out  
8           there, that there needs to be a better job done on  
9           explaining what is your rationale for that.

10                   We certainly support continuing the  
11           recovery, monitoring, complying with international  
12           and domestic, and absolutely slam anyone that is  
13           illegally selling fish, period. Thank you.

14                   WILLIAM ETHERIDGE: A reason for why  
15           the permits are going down, well -- I would -- I  
16           would like to start out by saying that I own three  
17           longline boats and they have directed -- they're all  
18           three for sale. And anybody that said at this  
19           meeting or has been at the ICCAT meeting, or been --  
20           attended these meetings since I've been attending  
21           them that would question why my boats are for sale,  
22           I'd be glad to answer them.

23                   The number one reason that the  
24           incidental is going down, you went from 15 fish to

1 two fish, and certainly in your wisdom you should be  
2 able to discriminate between the economic value  
3 between 15 fish and two fish. It's just not  
4 financially feasible. We have a fisherman here that  
5 owns an incidental longline permit, and he will tell  
6 you the same thing.

7 And where National Marine Fisheries  
8 -- not you, Chris, but where National Marine  
9 Fisheries came up with the two fish, nobody knows,  
10 because there were several proposals out there and  
11 none of them were as small as two. That definitely  
12 is the number one reason why there's a reduction in  
13 request for -- and for the directed, I mean the time  
14 area closure in Florida literally put 60 longline  
15 boats out of business.

16 Now, if you look in the National  
17 Fisherman and you look under permits, you'll see  
18 several swordfish permits that are for sale, and I  
19 think they started out trying to get \$25,000 a piece  
20 for them, and now I think they would take just about  
21 whatever they could get and that's because they  
22 can't get the lawsuit that they have against  
23 National Marine Fisheries resolved and the people  
24 are just at their end. They're at their financial

1       end and they're at their wit's end.

2               The financial side of it leads to  
3       problems with crew, and the biggest problem that I  
4       have with owning longline vessels is dealing with  
5       the crew. It's not dealing with Wilmot. It's not  
6       dealing with Donofrio. It's trying to get people to  
7       work on these boats. And I just -- I mean, I just  
8       -- me and my wife just can't take it anymore and  
9       we're going to try to -- we're doing everything we  
10      can to get out of it.

11              I know that that's a human hardship,  
12      and there's a lot of people that have a hard time  
13      relating to that, especially my friends from the  
14      environmental community, but that is a real serious  
15      problem.

16              The transfer of tuna to Japan, the  
17      400 metric ton, and the reason that it was  
18      transferred into benefits that the United States got  
19      from that was from what I've been hearing, what I've  
20      been reading, was to help billfish. And now we have  
21      people here from the billfish wanting to move these  
22      fish over from the commercial catch to the  
23      recreational catch.

24              They are worried about whether

1       they're going to catch one fish, two fish, three  
2       fish. Personally I think the one thing that I have  
3       definitely learned in my involvement in this process  
4       is that the fish and the United States are a whole  
5       lot better off if the United States fishermen catch  
6       these fish. And if we're not catching the fish up,  
7       we need to make some effort to see that these fish  
8       are caught. And if the commercial longline industry  
9       can't catch the fish, hey, let the recreational  
10      fishermen catch them.

11               I mean, I personally as a man that's  
12      had his whole life devoted to commercial fishing, I  
13      don't have any animosity. If the commercial  
14      fishermen can't catch the fish, let the recreational  
15      fishermen catch them.

16               I want to explain to Mr. Donofrio --  
17      he's not here, but I think Russ or somebody called  
18      him a pirate. I want to tell you the difference  
19      between a pirate and a recreational fisherman  
20      catching his fish and selling it. There's a  
21      tremendous difference there.

22               He's not stealing something from  
23      somebody for his own personal gain. He is giving --  
24      a pirate would rob another ship and take it -- gold

1       or take the valuables off of it and keep it for  
2       himself. The sale of the fish is putting money in  
3       his own pocket, probably to help pay for his fuel or  
4       whatever the deal is, but think about the people  
5       that are going to use that resource after he sells  
6       it. And it belongs to them just as much as it does  
7       anybody else.

8               I mean, if he's selling it to a  
9       restaurant, somebody goes in that restaurant and  
10      eats that fish, he is getting something out of that  
11      resource that he would not have got if somebody  
12      hadn't sold that fish. And you just never see any  
13      consideration for that. We just -- I live in a  
14      tourist area, and the seafood company that I have  
15      services restaurants. And last weekend the  
16      restaurants were able to offer the people that  
17      couldn't afford to go out on a charter boat, the  
18      people that didn't own their own boat, they could go  
19      to a restaurant or they could go to a local retail  
20      market and they could buy some dolphin, they could  
21      buy some tuna, they could buy some shark, and that  
22      resource belongs to them just as much as it does to  
23      -- it's just an equal -- and commercial fishermen  
24      and recreational fishermen give other people access

1 to that resource, and that's really and truly what  
2 the National Marine Fisheries is supposed to be all  
3 about.

4 I would like to recommend that you  
5 authorize or you mandate that rod and reel  
6 recreational in the handline commercial -- I asked  
7 Mr. Leech if he had any place in his organization  
8 for handline records. He told me he didn't. And I  
9 really can't imagine somebody just going out to  
10 catch a fish with a handline. But I'm sure there  
11 might be some people that do it. But if you require  
12 that they have an incidental permit, it might would  
13 give the people that now currently own an incidental  
14 permit somebody to sell that permit to. And it  
15 wouldn't -- I don't think there would be too much  
16 objection there.

17 But when you think about recreational  
18 fishing, you have a real hard time going to a  
19 handline. I don't know if anybody's ever caught a  
20 fish on a handline. I've caught a few, but --

21 The circle hooks deal, I mean, I know  
22 that people really look for ways to try to help on  
23 this conservation issue, this bycatch issue. I'm  
24 one person that does not -- I cannot see any benefit

1       -- I'll take that back. The overall benefit from  
2       circle hooks, there is no overall benefit. It's a  
3       negative deal.

4               I just came back from fishing for  
5       sailfish in Cancun, Mexico, caught several sailfish.  
6       Most of the fish were caught on circle hooks and  
7       just as many of them or more of them were gut-hooked  
8       with a circle hook than they were -- would have been  
9       if it had been a jay hook. And the reason is  
10      because a circle hook, all I ever seen, all I've  
11      ever had any dealing with, they're smaller, which is  
12      a whole lot easier for the fish to get down in his  
13      system.

14             I know the idea is you pull it out,  
15      it only hooks in the corner of the mouth, but that's  
16      not reality. If anybody thinks it is, stick it down  
17      their throat and try to pull it out and see where it  
18      gets hooked at.

19             And I know that I'll probably get cut  
20      off on this, but I want to know has anything ever  
21      been done to help the fishermen in Florida that were  
22      totally put out of business? Is National Marine  
23      Fisheries -- are they just out of business? I know  
24      there's a lawsuit and I know that it's pending, but

1       has there ever been any consideration from the  
2       agency that put these people out of business to do  
3       something to help them? Could you give me an answer  
4       to that? And if you know anything about the court  
5       case.

6                   MODERATOR CHRISTOPHER ROGERS: Well,  
7       the court case has been briefed, so to speak. We're  
8       waiting the judge's ruling on scheduling a hearing  
9       or ruling from the bench, as they say summary  
10      judgement. With respect to assistance, we did  
11      provide as much information as we could gather on  
12      federal and state assistance programs that would be  
13      available to those fishermen, but there was no  
14      direct assistance appropriated by the agency for  
15      that purpose. Basically, existing programs were  
16      identified to those affected fishermen.

17                  MICHAEL LEECH: Thank you. As I told  
18      Willie, we don't have world records for handlines,  
19      but my personal feeling is if anybody catches a  
20      swordfish or a tuna on a handline, they deserve it,  
21      and they're welcome to all they can catch.

22                  When this recreational swordfishery  
23      started expanding in Florida, we started hearing all  
24      kinds of rumors about the huge numbers of swordfish



1       that were being caught, but there was no data to  
2       back up anything. So, since I was involved in it in  
3       the late '70s and I basically was one of the few  
4       idiots that kept going out there a few nights each  
5       year for the next 20 years without catching  
6       anything, and was involved when it started picking  
7       up again.

8               I was curious to find out what  
9       roughly the numbers were, so being out there last  
10      summer under ideal conditions on a Saturday night  
11      near full moon and during the one tournament that  
12      was held last summer, I never saw more than 18 boats  
13      out there under the best most ideal conditions.

14             The one tournament that was held  
15      supposedly of the best recreational swordfish  
16      anglers resulted in three fish being weighed in. I  
17      think there was some small ones released. And that  
18      was 18 boats in that tournament.

19             So, I started making a list of all  
20      the boats that I knew about and networking from  
21      there. So, I came out with a rough number of the  
22      boats -- the recreational boats that were out there  
23      fishing. Some once, two, three times a year. Some  
24      20 or 30 times a year.

1                   I talked to the guys who were down in  
2                   Miami and there were just a few of them, and there  
3                   didn't seem to be hardly any recreational fishing  
4                   going on south of Miami, maybe a couple down in the  
5                   Keys, and very little if any north of Palm Beach.  
6                   So, I've got -- at least I feel I've got a pretty  
7                   good handle on the boats that are fishing out there.  
8                   And we're going to continue to monitor it.

9                   And because we are recreational  
10                  fishermen ourselves and represent recreational  
11                  fishermen, the people I contacted were fairly  
12                  willing to cooperate and give me data, and probably  
13                  half of the 50 boats that I had identified had sent  
14                  me their catch and effort data for 2001. And using  
15                  their data and projecting forward, as best I can  
16                  come up with, and I'm not a scientist and it's not a  
17                  scientific survey, and Chris is aware of it, I've  
18                  sent him my information, I would call it an educated  
19                  anecdotal report. But it looked like there was  
20                  about 500 swordfish caught in 2001 in South Florida.

21                  To my surprise, 53 percent of them  
22                  were being released. Some because they were  
23                  undersized, 47 inches, some because the people that  
24                  were catching quite a few, even though they caught

1       one that might have been somewhat above the minimum  
2       size didn't catch it anyway, because they had some  
3       swordfish in their freezer and they weren't looking  
4       for a 50, 60, 70 pound swordfish. They were looking  
5       for something over 100 pounds.

6               Most of them are fishing 50 and 80  
7       pound tackle out there, and a 50 pound swordfish,  
8       you know, isn't too much of a fight. So, anyway,  
9       that's the rough handle that I've got on it and  
10      we're going to continue to monitor it.

11             And one of the other things that  
12      we've done to promote the tagging of the swordfish  
13      in that area is -- some of you may be aware of the  
14      AFCO tag flag program where they recognize the  
15      angler and the captain in the Atlantic, and I think  
16      now also in the Pacific, that tags the most blue  
17      marlin, white marlin, sailfish, tuna, etcetera. And  
18      they get recognized. And we have a big banquet and  
19      they get awards and their pictures are in the  
20      magazines and that type of thing. But swordfish  
21      were not included. So, I have gone to AFCO and I've  
22      asked them to include swordfish, which they agreed  
23      to do. IGFA is going to sponsor the awards, pay for  
24      them. So, starting now we're going to be

1 encouraging people to tag and release the swordfish,  
2 particularly the small ones.

3 As far as the circle hooks go, I  
4 would -- you know, since we've already got an  
5 experimental fishery up in the distant northeast,  
6 that might be a good place to find out how circle  
7 hooks work on swordfish. If you could get some of  
8 those boats up there to mess with them. Going to be  
9 hard to change the ways of the swordfishermen out  
10 there, because fairly regularly they'll hook a  
11 swordfish in the dorsal or pectoral fin, and if you  
12 take away the circle -- if you make them or  
13 encourage them to use circle hooks, they're going to  
14 feel -- at least their perception is that they're  
15 going to lose some opportunities to catch swordfish.

16 But if we could document something in  
17 the northeast, that would be very interesting. And  
18 since we've got an experimental fishery going up  
19 there, that might be a thought.

20 As Chris found out in the Fort  
21 Lauderdale meeting, there is very strong sentiment  
22 against the bag limit. There is a fairly strong  
23 sentiment against a phone-in reporting -- mandatory  
24 phone-in system. I don't think it would be very

1       accurate. And what I'm thinking is whether IGFA  
2       pursues the informal monitoring or somebody in the  
3       Southeast Office of NMFS does the same thing, that  
4       might be the most effective way to keep your finger  
5       on the pulse, at least roughly, of what's happening.  
6       You won't get every fish that's phoned in -- that's  
7       caught and boated, but you'll have a rough idea.

8               And as I pointed out yesterday, back  
9       in the late '70s when it was an extremely popular  
10      fishery and there were big fish and there were  
11      tournaments all over the place, the catch was still  
12      relatively minute compared to the commercial  
13      landings. And it just -- other than yeah, we want  
14      to see what's happening in this fishery and kind of  
15      keep a rough idea, but I can't imagine that there  
16      would ever be, you know, 100 tons of swordfish  
17      landed by recreationals. I don't think there ever  
18      were. Probably never will be.

19             So, it's -- whether it even warrants  
20      any kind of going through the great process of  
21      tagging or phone-ins or this or that. Maybe five  
22      years from now. But my feeling is it just -- let's  
23      kind of just kind of watch it and monitor it.

24             And I'm wondering just what the

1 leanings are now of NMFS towards pursuing the phone-  
2 in and pursuing the bag limit. That's all I've got.

3 MODERATOR CHRISTOPHER ROGERS: Well,  
4 we've obviously got a lot of comment, not only  
5 received in response to the proposed rule but here  
6 at the panel meeting, so we're going to have to mull  
7 it over, several aspects of managing that  
8 recreational fishery.

9 So, I'll say I'm riding the fence  
10 right now, but we'll be meeting with the Assistant  
11 Administrator, reviewing all the comments received,  
12 the concerns expressed at this Advisory Panel  
13 meeting, and I can say that we'll lean one way or  
14 the other eventually. But we have a lot of  
15 consideration to do. Glenn Delaney.

16 GLENN DELANEY: Thank you. I want to  
17 say that I have really a lot of mixed feelings about  
18 this whole issue and -- you know, on the one hand,  
19 one of the reasons -- one of the fundamental reasons  
20 why the National Marine Fisheries Service and state  
21 agencies and the recreational community have  
22 struggled for so long to get a good handle on their  
23 catch data is because the product does not go into  
24 the marketplace, and the distinction therein lies

1 with commercial fish that do and therefore it  
2 provides a convenient, efficient, effective point of  
3 sale, ability to monitor catch and -- you know,  
4 gather other data.

5 So, in some sense, you know, I feel  
6 like -- you know, let's have these guys put the fish  
7 into the marketplace and that will create a natural  
8 monitoring mechanism. Sure, some fish are going to  
9 go home into the freezer. Hopefully -- you know,  
10 some of the data will show up in the marketplace.

11 But on the other hand, I think we  
12 need to understand the feelings of people in the  
13 fish business, not just fishermen, commercial  
14 fishermen who sell their catch who may or may not  
15 feel -- you know, I think you hear Willie having a  
16 very progressive attitude toward this whole issue,  
17 but certainly there are fishermen on the other side  
18 who would feel that any sportfisherman who goes out  
19 on the weekend and catches a swordfish and sells it  
20 to a restaurant has denied him some part of his  
21 living.

22 I would say there are certainly fish  
23 houses that would share that same perspective, the  
24 same guys that you may buy your bait and fuel and

1       ice from to go out sportfishing on the weekend may  
2       be the guy who would have made some small profit on  
3       that fish, had it been delivered to his dock and  
4       then he got to sell it to the restaurant or up the  
5       food chain, as we say.

6                You know, so you need to think about  
7       that, too. You know, there are aspects of the  
8       coastal communities that are dependent upon that  
9       trade, which are affected by direct sales from  
10      fishermen to restaurants.

11               And then the last thing we need to  
12      consider is the safety concerns, health and -- you  
13      know, human health and safety concerns. Some of  
14      these species -- I know we're talking about  
15      swordfish, but certainly in the tuna species and  
16      others, there are some preservation handling issues  
17      that need to be seriously considered. And of  
18      course, with any seafood there's basic preservation  
19      considerations to be made.

20               And you know, the National Marine  
21      Fisheries Service has gone a long way to expand and  
22      develop what's called a HASIP program to ensure the  
23      safety of consumers when they eat seafood. And boy,  
24      there's a whole -- you know, subculture involved



1       with that in fisheries that is quite important and -  
2       - you know, we have scombrosis, is that what it's  
3       called -- scombroid poisoning associated with any of  
4       the tuna type species, histamine issues with some of  
5       the fish.

6               So, you know, those are other  
7       concerns. I won't belabor it. But there's a reason  
8       for HASIP, there's a reason for this chain of fish  
9       dealing that goes down the line and controls and  
10      there's people whose livings are based on that.

11             So, you know, I think we need to  
12      consider that as part of this debate. But again,  
13      you know, I have very mixed feelings about it. You  
14      know, I'm a passionate recreational fisherman and if  
15      I went out and caught two swordfish, I might not put  
16      one in the freezer because I'd rather eat it fresh  
17      and give it to my friends and let them eat it fresh,  
18      but I'd probably sell the other one to pay for the  
19      fuel or whatever. So -- if I could. And so -- not  
20      being a pirate.

21             But you know, so I have a lot of  
22      mixed feelings about it, and some of the things  
23      Willie said were certainly on point. But generally  
24      speaking, I think the commercial seafood industry --

1 not just the fishermen, have an important and valid  
2 stake in whether or not -- or at least how fish are  
3 going to get from a recreational fishing boat into  
4 the marketplace and that's I think what NMFS needs  
5 to seriously think about, and economic impacts and  
6 considerations and that.

7 Moving on to the development of this  
8 hand gear fishery for swordfish, Mr. Leech I think  
9 said maybe the total catch was about 500, which is  
10 probably already substantially more than what took  
11 place back in the '60s or '70s, whenever there was  
12 that hand gear fishery that you guys referred to a  
13 lot, which I think was only about half that size.  
14 But in any case, --

15 UNIDENTIFIED: (Inaudible.)

16 GLENN DELANEY: Yeah, well, I'm going  
17 to get to that. But another consideration I want to  
18 make or call to your attention -- just like I tried  
19 to do, maybe not very articulately last night --  
20 because we were all very tired -- with the North  
21 Carolina fishermen. You know, if I had my way, you  
22 know, particularly as an international commissioner,  
23 the last thing I want to see and I hate to see are  
24 American fishermen fighting against each other for a

1 resource, because I spend far more of my time  
2 focused on the international problems that we're  
3 facing and when I see this kind of debates always I  
4 think God, if these people only knew what -- and I  
5 know you know, but I don't mean it that way --  
6 insulting -- but if you ever thought about what  
7 we're facing internationally, it just seems like  
8 such a shame that we have to fight over a resource  
9 instead of, you know, fighting against the problems  
10 internationally.

11 But I just want you to consider the  
12 psyche of a zero sum game. When you have a resource  
13 that's set by a TAC and a U.S. quota through ICCAT,  
14 and you want to develop a fishery, whether you want  
15 to call it a new fishery or not, everybody's got  
16 their -- you know, their stories about who existed  
17 first, I suppose -- you know, we should give all the  
18 bluefin tuna to the Greeks because you can go back  
19 and find Greek coins with bluefin tuna on them. You  
20 know, and I don't even think they fish for them  
21 anymore, but they probably deserve it on that basis.

22 The psyche of allowing -- just  
23 allowing much less promoting the development of a  
24 hand gear fishery, which is in large part -- not

1       entirely, but in large part in the very same areas  
2       where the highest concentrations of juvenile  
3       swordfish were identified, and which brought about  
4       NMFS to completely basically eradicate longline  
5       fishing off the coast of Florida and in the  
6       southeast, I might add yes, without any  
7       consideration of the economic impacts on the coastal  
8       fishing communities in Florida, is a tough thing for  
9       some people who are directly affected to handle.

10               I mean, think about it if you were  
11       them. Well, we've got this massive conservation  
12       crisis, even though Glenn tells me the stock's going  
13       up, NMFS says well, we have to shut this down and  
14       completely eliminate this fishery to protect  
15       swordfish babies, and the few billfish that are  
16       caught. And you know, right away we're talking  
17       about not only allowing but promoting the  
18       development and fostering the development of a  
19       fishery that basically just replaces it. The same  
20       hooks, the same bait, the same fish, the same dead  
21       fish.

22               You know, imagine psychological  
23       aspects of this. So, when you get resistance -- I  
24       want everybody to go catch fish. I want everybody

1 to have all the fish they can catch. But you know,  
2 have a little bit of consideration of what you just  
3 did there. You just eliminated fishermen, fish  
4 houses, the whole economy in these coastal towns  
5 because we wanted to protect small swordfish because  
6 people shouldn't fish in this area because there's  
7 so many babies. It's a nursery habitat. And right  
8 away we're talking about well, let's develop this  
9 fishery. It's much better. Why is it better?  
10 Here's the very same fish, the very same hook, the  
11 very same bait. Here's small swordfish bycatch.  
12 This is RFA making waves. And it clearly points out  
13 that this baby swordfish was released. Well, we  
14 release them, too, or used to. You know, there's  
15 swordfish bycatch.

16 UNIDENTIFIED: We don't take  
17 pictures, though.

18 GLENN DELANEY: Yeah. So, the point  
19 is you're going to catch baby swordfish in this area  
20 because that's where the baby swordfish are. We  
21 determined that, that's why the area was closed.

22 I was a little surprised to hear  
23 Ellen speak on behalf of the Billfish Foundation on  
24 this issue because I spent -- oh, I don't know,

1       about two or two and a half years working with the  
2       Billfish Foundation, day in and day out. That's  
3       probably why Bob Hayes isn't here this week is he  
4       can't stand being in the room with me anymore  
5       because we spent so much time together working on  
6       legislation to try to accomplish some bycatch  
7       conservation goals for this very fishery in a way  
8       that might have been a little more productive than  
9       where we ended up.

10               But nevertheless, during that process  
11       one of the very strong sort of platform positions  
12       that we agreed to throughout that legislative effort  
13       was that -- you know, if we're going to close areas  
14       as nursery grounds, it ought to be closed to  
15       everybody.

16               And the notion that we're going to  
17       allow one sector to pursue swordfishing, for  
18       example, in a swordfish nursery area and not another  
19       sector is unconscionable. I mean, it's just  
20       indefensible. And so therefore our position in that  
21       legislative effort was that if there's a closed area  
22       for swordfish, that nobody ought to fish for  
23       swordfish there, regardless of the gear, regardless  
24       of the economy from which you come.

1                   So, I was a little bit surprised  
2                   about that, and I guess maybe she would like to  
3                   respond and explain that. And you know, that was  
4                   then and this is now, so you're certainly not bound  
5                   in any way. But you know, we had a pretty strong  
6                   philosophical view on that.

7                   Having said all that blab, you know,  
8                   I agree with Mr. Leech that -- you know, it's hard  
9                   to imagine this fishery growing to any size that  
10                  would be unmanageable or destructive to the interest  
11                  of conservation or U.S. fishing interests. Willie  
12                  is absolutely right. If this country has decided  
13                  that they don't want fish to be caught by commercial  
14                  fishermen, they'd rather have fish caught by  
15                  recreational fishermen and allow them to sell them  
16                  instead, you know, so be it. That's -- we live in a  
17                  great land.

18                 And you know, the bottom line is, as  
19                 Willie said, it's better for us to catch them than  
20                 to have them caught by Spain or Japan or whomever,  
21                 because those countries do not believe in the type  
22                 of conservation goals that we do. I hesitate to say  
23                 Japan because I think they -- despite many people's  
24                 opinion, they've done a lot of good things at ICCAT.

1 But certainly a lot of nations to which these fish  
2 would be redistributed at ICCAT if we don't use them  
3 on a continual basis. They're going to be  
4 reallocated soon.

5 Better to have them subject to our  
6 conservation regime and ethic than theirs. So,  
7 Willie had a lot of poignant points to make there.  
8 I'm not sure they're consistent with the mainstream  
9 of commercial longline fishing thought, but -- you  
10 know, there's some validity to all that. So, I'll  
11 shut up.

12 MODERATOR CHRISTOPHER ROGERS (No  
13 microphone): (Inaudible) break for lunch now and  
14 continue the discussion after lunch.

15 ELLEN PEEL: Chris, is it possible or  
16 would the group entertain the request that I be able  
17 to respond to Glenn and move my comments up earlier,  
18 since I am going to have to leave at noon today?  
19 I'll keep them brief.

20 MODERATOR CHRISTOPHER ROGERS:  
21 (Inaudible.)

22 ELLEN PEEL: Exactly. Is that a yes?  
23 Take heart, Glenn. Don't be disheartened here. To  
24 your point specifically, on the legislation, we did



1 say that there could be -- in the last provisions  
2 that got modified many times, that there could be no  
3 sale by anyone certainly if the longlines were  
4 closed, that any angler that took fish out there,  
5 there could be no sale.

6 UNIDENTIFIED: (Inaudible.)

7 ELLEN PEEL: Yes, so we have  
8 maintained that. In our written comments, as I said  
9 that we submitted, while we had a lot of questions  
10 on the rationale put forth, how it was dealt with  
11 with the public, and that we had questions on bag  
12 limits for the rationale they said, also in light of  
13 the quota had not been taken, the allocation, our  
14 written comments and our final position, as I said,  
15 was because we wanted to continue the recovery that  
16 we supported encouraging the recreational fishery to  
17 be a catch and release fishery, that we weren't  
18 supporting landing, but if you are going to go with  
19 landings, then perhaps to get the monitoring, the  
20 data collection, maybe this is another fishery where  
21 you want to consider body tags or some other means,  
22 particularly with the concern of sale.

23 At the Fort Lauderdale meeting, which  
24 both Mike and I have referenced, there were 110

1 people, and I would say -- and they all did oppose  
2 the bag limit that were there that spoke; however,  
3 do keep in mind at least 90 -- and I'm being very  
4 conservative there -- at least 90 of them gave  
5 reason expressly to believe that they -- and some  
6 said at the microphone -- they wanted to be quote,  
7 just like the bluefin guys up east. They wanted to  
8 sell their fish. They were being deprived the right  
9 of selling their fish.

10 So, it was definitely a hybrid group.  
11 It was, you know, more of maybe a general category  
12 of what they were looking for to create a general  
13 category swordfish fishery. The issue that you  
14 raised several of the nursery -- if landings going  
15 to be allowed, then perhaps looking at an increased  
16 minimum size.

17 We have an advisory council of our  
18 own and met recently in Miami with anglers and  
19 industry representatives from around the country,  
20 and on this issue the whole issue of minimum size  
21 was raised, not only the recreational, they also  
22 raised it across the board. So, perhaps  
23 entertaining minimum size.

24 And last, before you ask us for

1        comments on a proposed rule, I mean, at the last  
2        minute where you've added, I think it would help --  
3        I would certainly appreciate next time having your  
4        rationale put forward of why, because perhaps  
5        there's something that we haven't thought of  
6        instantly that may make sense. But next time I  
7        would appreciate some rationale being put forth in a  
8        presentation before you ask us to consider giving  
9        you comments on something. Thank you very much and  
10       thank you to all the panel.

11                    MODERATOR CHRISTOPHER ROGERS: Okay.  
12       Just a point of clarification. That was with  
13       respect to a quota being established for the  
14       recreational fishery? We had put forth that  
15       rationale in the FMP development. The rationale  
16       being that since it was emerging as a targeted  
17       swordfish fishery, was it appropriate to be  
18       deducting from the incidental catch category, sort  
19       of a philosophical question as opposed to a real  
20       allocation -- not necessarily what that number  
21       needed to be to control the activity in that sector,  
22       but just again as an appropriate means of accounting  
23       for the catch as something that's targeted as  
24       opposed to incidental.

ROBERT MCAULIFFE: Well, most of what NMFS does is supposed to enhance data collection. Most of our problems in the Caribbean are caused by the total lack thereof.

With the tuna licenses for -- in the

1 Virgin Islands, these were promoted -- the little  
2 promotion they got was through our Fish and Wildlife  
3 Service, funded by NMFS. And they convinced a lot  
4 of the guys to come in and buy the tuna permit and  
5 then turned around and told them well, that only let  
6 you catch it, you got to have a dealer permit to  
7 sell it.

8 So, all the ones that the government  
9 handled went and bought both a harvest permit and a  
10 dealer permit, but they didn't bother telling them  
11 that they had to report. So, I would wager of the  
12 -- I think 23 permits -- dealer permits that you  
13 have for the Virgin Islands, that not more than two,  
14 if two, have given you any reports. So, they're not  
15 buying fish and reporting it. They're just using  
16 that when the enforcement officer comes around and  
17 says oh yeah, I can sell, I've got a permit. But  
18 you're not accomplishing the designed goal.

19 So, basically NMFS needs to revisit  
20 the whole attitude and approach to the Caribbean  
21 region. And each island is distinctly different, so  
22 you've got your hands full.

23 The Virgin Islands, basically St.  
24 Croix, we have a total of less than 100,000 people,

1 we have 23 dealer permits. Only one of them that I  
2 know of was active. Puerto Rico, millions of  
3 people, two and a half million people or ten  
4 million, I don't know, but it amounts in the  
5 millions. Seven permits. It can show you the  
6 difference just between the two islands.

7 We really need to revisit the whole  
8 thing. We need to authorize these fishermen who  
9 have been catching all of these fishes for  
10 generations, but it has never been recorded because  
11 the government never saw fit to look at us.

12 And as I have stated over and over in  
13 earlier -- at this panel, the tuna part alone is of  
14 such magnitude that it would affect the overall  
15 picture of the U.S. at ICCAT on catch. But yet with  
16 the efforts you've made to increase that data  
17 gathering, you've totally failed, because what  
18 you've put in place has not gotten you any  
19 additional counting. Even with the -- working with  
20 the local governments, their data collection methods  
21 or forms do not break out the information that's  
22 necessary for ICCAT, for your highly migratory it  
23 says tuna, dolphin and wahoo, lumped together.  
24 Doesn't do you any good.

1           The whole structure, the whole thing  
2       needs to be revisited and in the interim we need to  
3       do something to decriminalize the fishermen within  
4       the region who are harvesting these fish. We are  
5       now informed, in fact, that at the Council meeting  
6       last week -- we just ignore that and let the brown  
7       stuff hit the fan or to warn the fishermen to  
8       protect themselves.

9           But the thing is we really need to  
10      sit down and isolate the Caribbean, as it is truly  
11      isolated, and structure the whole data collection  
12      and management to fit the region. You can't lump us  
13      in with the rest of the country, because we don't  
14      fit.

15           And I guess I could just go on and  
16      cry and cry and cry, but I think you get the  
17      picture. We need to be looked at in a different  
18      light and we need to have some direct representation  
19      and not just going to our local governments, because  
20      all of us within the island realize that our local  
21      governments are both inept and corrupt. And it does  
22      not benefit the industry. You need to work -- have  
23      everybody together in one place where these things  
24      can be ironed out and ironed out to the good of all.

1 UNIDENTIFIED: (Inaudible) to  
2 represent an entire fishery and you're not going to  
3 get me to put it in three minutes.

4 MODERATOR CHRISTOPHER ROGERS: I  
5 guess we need to break for lunch (inaudible) --  
6 to take comments over the Internet. So, he will be  
7 here and depending on his availability we may want  
8 to just take him first and then we'll get back to  
9 our discussion. And Carol wanted to talk about some  
10 of our Web-based and other means of communication  
11 with the panel so we can enhance our dialogue  
12 throughout the year between meetings. So we may  
13 have to take that first just because of persons'  
14 availability and then we can get back onto the  
15 swordfish discussion. Thanks. Be back here at 1  
16 o'clock, please.

17 (LUNCH)

18 (42 minutes tape 18 blank, 43 minutes tape 19 blank)

19 MODERATOR CHRISTOPHER ROGERS: -- so  
20 it's unambiguous.

21 UNIDENTIFIED: Yeah, just speculating  
22 and following up there, because I don't know the  
23 rule and I'm actually going to shoot off on a  
24 tangent just not knowing what your answer is going



1 to be.

2 I can't say as I like enforcing U.S.  
3 law on U.S. citizens that are outside of your  
4 country. I can understand the vessel and the quota  
5 monitoring and all of that, but would the same apply  
6 to say one of Nelson's folks if he was on a foreign  
7 flagged vessel. If he was a U.S. captain, hired by  
8 a Venezuelan boat owner. Is he fishing by U.S. law  
9 because he's still a U.S. citizen? I just throw it  
10 out, because I don't know -- I don't know the law  
11 that's brought us to this point.

12 JOHN DUNNIGAN: If he's hired by a  
13 U.S. owner to conduct a fishery for Endangered  
14 Species, he's going to have a big problem. All  
15 right? If he's hired by a Venezuelan owner to fish  
16 under Venezuela's quota, under ICCAT, then that will  
17 count for Venezuela and he can do that legally.

18 UNIDENTIFIED: But this isn't about  
19 ICCAT quota. I understand exactly ICCAT quota. 23  
20 actually -- this question actually goes beyond ICCAT  
21 quota to am I -- does the U.S. law -- now we're into  
22 size limits. Now we're past quota and into which  
23 law applies and I don't know how we've gotten U.S.  
24 law to apply on a U.S. citizen outside of the United

1 States who's not on a U.S. flagged vessel.

2 I understand the U.S. maintains  
3 control of her vessels, no matter where in the world  
4 they go. I don't know how you --

5 JOHN DUNNIGAN: And citizens.

6 UNIDENTIFIED: True of the citizens,  
7 as well.

8 JOHN DUNNIGAN: Sure.

9 UNIDENTIFIED: So, a U.S. captain so  
10 long as he maintains U.S. citizenship must follow  
11 all U.S. laws.

12 JOHN DUNNIGAN: Well, sure, except  
13 that the U.S. laws on size limits, on highly  
14 migratory species don't apply to foreign vessels  
15 fishing in a foreign country.

16 UNIDENTIFIED: But I'm sticking with  
17 this question. It put a U.S. citizen --

18 JOHN DUNNIGAN: Well, the answer --

19 UNIDENTIFIED: -- on a foreign  
20 flagged vessel, and I don't know how you've  
21 overridden the flag of the vessel.

22 JOHN DUNNIGAN: Well, we haven't  
23 answered the question very well and what Chris has  
24 said is we're going to fix it.

1 UNIDENTIFIED: Okay.

2 MODERATOR CHRISTOPHER ROGERS:

3 Hopefully we'll fix it unambiguously. All right.  
4 Just to conclude this, I don't (inaudible) sign of  
5 Jim Sargent, who was going to give us a presentation  
6 on the E-Comments project. I guess I didn't  
7 communicate effectively with him as to the time he  
8 needed to be here. But Shana, you have a question  
9 before I get onto -- I'm just going to introduce  
10 what E-Comments is and then leave it at that. Okay  
11 I have a comment on E-Comment. Well let me tell  
12 everyone what it is and what it is not, and then you  
13 can have a comment on it.

14 As I said before we have a disclaimer  
15 in our federal register notice that says you can  
16 mail or fax your comment -- or present them to us in  
17 person or in writing at public hearings, but we  
18 won't accept them over the Internet, and that was  
19 because the agency was wrestling with the issue of  
20 how to receive comments and sort through them and  
21 process them efficiently over the Internet, with the  
22 recognition that it's pretty wide open on the  
23 Internet.

24 You have the screen for nefarious

1        attachments and things like that and things can  
2        easily be forwarded multiple times and whether  
3        you're getting the same comment 1,000 times because  
4        it's being forwarded or it's a unique comment, what  
5        we've set up is a template, if you will, that's  
6        linked to sources in the Federal Register where the  
7        rule is actually published and you can actually view  
8        the rule on line at the Federal Register and then go  
9        into this template and enter your personal  
10       information. I'm Joe so and so, I'm affiliated with  
11       this fishing club and I want to comment on this  
12       rule.

13                    It just structures it for us so that  
14       it can be easily sorted as to this person's  
15       commenting on this rule and these are the issues  
16       that this person has with the rule, or even some of  
17       the supporting documents. They may completely agree  
18       with the regulatory text proposed or something like  
19       that, but they have some comments on the  
20       Environmental Assessment that was done or the  
21       Regulatory Impact Review, those kinds of things.

22                    So, again, it is structured so that a  
23       person interfacing with NMFS will be interfacing in  
24       a way that's helpful for us to understand where

1       you're coming from, what you're commenting on and  
2       allow us to sort and process those comments  
3       efficiently.

4               There'll be a press release on it.  
5       They have picked us as the pilot project, since we  
6       have several rulemakings in the hopper, so they  
7       decided to go with one of our HMS rules to test  
8       this, and we do hope that you all take advantage of  
9       the opportunity to just try it out and see how it  
10      works and give us comment. There will be a hot  
11      button, so to speak, on it that says, you know, I'm  
12      going to comment on the rule, but you go can over  
13      here and click and I say I'm going to comment on E-  
14      Comments. You know, did I find this interface  
15      useful, did I find it difficult to use or difficult  
16      to navigate, or for something like that.

17             So, again, that will be forthcoming,  
18      hopefully within the next two weeks or something  
19      you'll see that there was a request from the IT  
20      folks to make sure we released the rule early in the  
21      week. So, you can know that it's probably going to  
22      come out on a Monday or a Tuesday, because they  
23      didn't want us to publish the availability of this  
24      Web site and this rule on a Friday afternoon and

1       then nobody would be there over the weekend to deal  
2       with all the folks who were trying it for the first  
3       time and have all kinds of questions about it.

4               So, next -- so we're going to try to  
5       release that early in the week -- in the next week  
6       or two and would encourage you all to give the E-  
7       Comments interface a try. Shana and then Bob.

8               SHANA BEEMER: Chris, that's really  
9       great to hear. I guess I was speaking more -- I  
10      didn't realize that the pilot project was really  
11      going through. But on behalf of Sonja and the Ocean  
12      Conservancy and Audubon, it definitely -- it makes  
13      it a lot easier for the public to comment because  
14      now that e-mail is so big, you know, people putting  
15      a stamp on a letter is kind of difficult for most  
16      people. And because NMFS is, you know, most other  
17      government agencies already have the E-Comments, so  
18      that's great.

19              MODERATOR CHRISTOPHER ROGERS: Yeah,  
20      just to emphasize, this is a pilot project that  
21      would be expanded in the future to what we would  
22      call E rulemaking. Right now it's just the taking  
23      comments part of it, but in the future it would be  
24      what -- Environmental Protection Agency and I guess

1 Department of Transportation has undertaken some  
2 efforts in this regard, I guess USDA, as well, on  
3 some of their more controversial rules like organic  
4 labeling and things like that, where the entire  
5 docket, so to speak, would be an electronic docket.  
6 So, you could actually view other people's comments  
7 and the agency's responses to comments and basically  
8 the whole record for the rulemaking would be  
9 available online.

10 As our first foray into this area, it  
11 will be restricted to the public comment phase of  
12 the rule, but again this is just a pilot project to  
13 get us to the next step. And we do plan other  
14 activities in this avenue over the next year. Bob.

15 BOB : Chris, could you just  
16 elaborate just a little on your plans for -- as you  
17 called sorting and processing these comments? I  
18 mean, these boards can be everything -- run the  
19 gamut from just places for people to vent and  
20 there's not much feedback to you're responding to  
21 every single one, and I suspect what you're planning  
22 is somewhere in between that. So, could you just  
23 elaborate a little bit on that?

24 MODERATOR CHRISTOPHER ROGERS: Right.

1       It would not be our intent to respond to every  
2       comment received. It would assist us -- obviously  
3       assist the public in submitting comments to us, but  
4       assist us in processing those comments. It would be  
5       the normal process of the final rule would have a  
6       response to comments section of the rule, whereby we  
7       would indicate the subject matter of the comments  
8       received and how the agency responded to those  
9       comments by either sticking to our guns, sticking to  
10      the proposal, or modifying the proposal in some way  
11      in response to those comments.

12               What it would do, the interface would  
13      give a person an option to comment on certain areas.  
14      Did you want to comment on the analytical documents,  
15      the supporting documents to the rule? Did you have  
16      a comment on something that was mentioned in the  
17      preamble? Did you have a comment on an aspect of --  
18      if it had an information collection requirement like  
19      a permit or a logbook or something, and you felt  
20      that the agency's estimate of the burden hours that  
21      would be imposed on an individual for recordkeeping  
22      or reporting was inordinately low and you wanted to  
23      comment.

24               So, rather than have just sort of an



1 e-mail format of a whole bunch of comments on many  
2 different aspects of the rule, it allows you to  
3 channel, I want to speak to this issue, and that's  
4 somewhat separated in terms of how it gets entered  
5 into the database on our end.

6 So, if I was going to say hey, Pat  
7 Cheeta, I want you to respond to all the comments  
8 about changing the tuna permit Web sites, he can  
9 easily sort through and pull those out, whereas I  
10 could ask Carol to take a look at all the comments  
11 about the regulatory impact analysis and she could  
12 sort those out.

13 So, there might be some concerns that  
14 folks have about how their input is channeled  
15 through this Interface, and certainly we want to  
16 hear about that. Have we structured it so that the  
17 particular avenue that you wanted to comment on is  
18 not clearly identified in that interface and we need  
19 to rethink that.

20 ROBERT HEUTER: It sounds good, and  
21 my quick follow-up would be since NMFS has chosen  
22 you for this pilot project, have they also allotted  
23 you new staff to do all this, because it sounds like  
24 -- I guess Ron just gave me the answer.

1 UNIDENTIFIED: Old staff would be  
2 okay, too; right?

3 ROBERT HEUTER: I didn't say young  
4 stuff, I said new staff. You know? It sounds like  
5 you have very good plans. Do you have people to  
6 carry these out?

7 MODERATOR CHRISTOPHER ROGERS: Well,  
8 what we have done is we have a wonderful program in  
9 the National Marine Fisheries Service, I guess  
10 throughout government, called the rotational  
11 assignment program, where you can raid other  
12 people's offices by offering new experiences to  
13 people, and we did put it out as a rotational  
14 assignment for someone who wanted to come along and  
15 help us support this program.

16 And actually I got two inquiries on  
17 it. So, we will hopefully get some help.  
18 Otherwise, existing staff will rise to the challenge  
19 I'm sure. Henry and then the other Bob down there.  
20 Bob Pride.

21 HENRY ANSLEY: I think that's a great  
22 idea. It sounds good. I was just wondering, do we  
23 have a general comment area besides those other  
24 areas? Because I know that most fishermen will not

1 read and they'll just want to say something about  
2 what they've heard.

3 MODERATOR CHRISTOPHER ROGERS: Okay.  
4 Bob Pride.

5 ROBERT PRIDE: Thank you, Chris.  
6 Just as Mr. Dunnigan's experienced here recently,  
7 make sure that you have a mailbox that has adequate  
8 Web space, storage space for those comments.

9 MODERATOR CHRISTOPHER ROGERS: Okay.  
10 Thank you. Okay. I think we need to move on from  
11 our communications. Mau, okay, sorry.

12 MAUMUS CLAVERIE: We went through  
13 this in the Gulf Council and we've been through the  
14 growing stage, and we've come to agreement with the  
15 organizations, NGO's, and they've been very  
16 cooperative and helpful so that we know how many  
17 comments from where said this. And I think -- I  
18 think (inaudible) makes us have copies of each one  
19 in a big stack at the meeting, but we don't get  
20 that. We get there were 300 came into the office  
21 that say this and they were from Nebraska and  
22 Alabama and Florida and New York, whatever.

23 And that's been very helpful because  
24 when we first started we were overwhelmed with push

1 the button responses. And so we've gotten that  
2 sorted out. And that's through the cooperative of  
3 the organizations that have the push the button and  
4 comment type of thing.

5 Another -- I guess you all have -- if  
6 you haven't, you'll work something out on that, but  
7 our public comments are to a specific amendment or  
8 something. So we don't have a sophisticated system  
9 like you do. We just say I'll come in and Steve or  
10 somebody looks at them and they're in this category  
11 or that category. Usually the big volume of stuff  
12 is a push the button and make a comment type of  
13 thing, and we've learned how to work to get that all  
14 done to everybody's satisfaction.

15 The one problem that exists is  
16 identification of the sender, and if you have a type  
17 in your address thing you're going to get wrong  
18 addresses. If you have an automatic -- you know, I  
19 download your address that you use when you send it  
20 to me, automatically some kind of way, that works  
21 better. But the law has -- the Magnuson Act is  
22 amended in even 1996 says it's illegal to lie if  
23 you're making comments on a fishery plan.

24 And in order to make that stick, you

1       have to know who it was that sent it in. And when  
2       we first got started, I just picked two at random  
3       and tried to, you know, write an e-mail to them on  
4       the address they gave us and both of them were bad  
5       addresses. It took the Gulf Council staff about  
6       three weeks to find the charter boat and the person  
7       in Illinois or someplace, and they didn't purposely  
8       make a bad address to avoid detection. It's just  
9       that they made an error in typing it in.

10               So, that is important. I don't know  
11       what you've done about that, but you can either  
12       reject the ones that don't have a good address, if  
13       you can figure out it doesn't have a good address  
14       and say you're going to do that, or you can send  
15       back a message -- I think we automatically send back  
16       a message saying we've got your message and have you  
17       told us who you are and what your interest is and  
18       all that, something -- I don't know exactly how it  
19       says it, but something to that effect, so that they  
20       know that we got it. And they also know that we  
21       know who they are.

22               And at our last meeting, I think it  
23       was the one before, Corky Perrett finally woke up to  
24       the fact that we were accepting e-mails but you all

1        weren't, because he came to one of the meetings and  
2        figured out you all weren't accepting e-mails, and  
3        so he brought it up at the Council why are we doing  
4        it if you all aren't doing it, and the Council's  
5        answers was we're going to stick with it. As much  
6        as trouble as it is, our constituents have gotten  
7        used to it and it would be a slap in the face to say  
8        no, you can't talk to us like that anymore and that  
9        kind of thing.

10                So, we're sticking with it, whatever  
11        the problems are. And I hope maybe you all come up  
12        with some sophisticated stuff we can get from you to  
13        help us, too.

14                MODERATOR CHRISTOPHER ROGERS: We're  
15        dwindling in number and losing time or running out  
16        of time. We did have a couple more agenda items.  
17        We need to get back with swordfish and finish that  
18        up. I'm trying to see all these lists that I've  
19        been keeping, without good labeling, who my  
20        remaining swordfish folks were.

21                I think I had Dave Wilmot, who's not  
22        with us right now; Russ Dunn, who's not with us  
23        right now; Glen Hopkins, who talked to me before he  
24        left.

1 I'll just mention his comment was a  
2 concern he does have a vessel that is an incidental  
3 swordfish limited access permit holder and that he  
4 feels that the two swordfish per trip limit for that  
5 category of vessel permit is overly restrictive.

6 There are not many trips where he's  
7 working on yellowfin tuna or bigeye tuna that he  
8 would catch more than two, but there are a few. And  
9 given that we do have 300 metric tons in that  
10 category that's not being consumed, that he was  
11 indicating that the agency should revisit those  
12 numbers and we certainly will, similar to the way  
13 we're revisiting the incidental catch requirements  
14 for bluefin tuna.

15 Bill Gerencer also had a comment and  
16 I see him no longer at his place. And Nelson, who  
17 needed, what, four minutes you said? The three  
18 minutes was not sufficient?

19 NELSON BEIDEMAN: (Inaudible.)

20 MODERATOR CHRISTOPHER ROGERS: Okay.  
21 Go. You're on the clock.

22 NELSON BEIDEMAN: On the clock.  
23 There was an awful lot of issues that have gone over  
24 and I will try to be brief, but quite a few of them

1 I need to touch upon.

2 On the hand gear category, the hand  
3 gear category from our perspective has turned into  
4 the loophole that we had warned about, and with all  
5 the things that we've done in the pelagic longline  
6 fishery over the last few years, there's going to be  
7 some mistakes made. Granted. But this is one that  
8 if it's expanded could be a real problem.

9 All this talk about opening up a  
10 limited access fishery because someone says they  
11 didn't -- they weren't informed, this is hocus  
12 pocus. The situation in the Caribbean, that's  
13 documented. There is a history of not being able to  
14 reach those folks for some reason. National Marine  
15 Fisheries Service is aware of it. They've been  
16 working at it.

17 Apparently we just haven't found that  
18 link that's necessary for Puerto Rico. But that's  
19 the only legitimate circumstance. You know, and  
20 that's proven by the tables, all the other areas,  
21 all the other -- you know, states, have a number of  
22 permits. The only one that doesn't is Puerto Rico.

23 So, we would support a very narrow  
24 look at that situation, but if you open up a limited



1 access fishery, you know, especially one that went  
2 through -- you know, ten years of pushing for it in  
3 a three-year open process and the six-month  
4 extension, what you're asking for is a lot of  
5 problems. Not just in this fishery, but setting a  
6 precedent of opening up all the limited access  
7 fisheries across this country.

8           There are limited access fisheries I  
9 would like a permit for. Nobody notified me they  
10 were going under limited access. The same story as  
11 -- you know, we're hearing. Whenever you draw a  
12 line, there's going to be some on one side, some on  
13 the other. The hand gear category was meant for the  
14 harpooners, which is absolutely legitimate. It was  
15 meant for the artisanal situation in Puerto Rico and  
16 apparently we did fail in reaching them. What it  
17 ended up being, I hate to say it, but pirates. A  
18 lot of pirates are involved in that category. It's  
19 a new thing. It's not what it was being targeted  
20 for. It's recreational that want to sell their  
21 catch.

22           On the recreational fishery, the  
23 recreational swordfish fishery, now for the life of  
24 me, you know, my guys -- they don't have a bone in

1       their body to go against a legitimate recreational  
2       fishery. They never have. They'll probably go out  
3       of business still supporting legitimate recreational  
4       fisheries.

5               We have a lot of respect for the  
6       sportfishermen and all the conservation work that  
7       they've done on billfish, their primary species. I  
8       think we've demonstrated that respect in our  
9       willingness to burn very valuable chits over at  
10      ICCAT to try to get what you guys say you wanted  
11      started.

12             Sometimes we wonder why the  
13      recreational community doesn't have at least -- or  
14      demonstrate at least some respect for the  
15      conservation efforts that we've done for a long time  
16      in trying to get conservation for our fishery,  
17      swordfish. But this is a conservation area. These  
18      swordfish nursery grounds were closed down because  
19      of the small fish in those areas. The U.S. pelagic  
20      longline fishery that traditionally takes 98 percent  
21      of the swordfish is in over a 50 percent reduction  
22      to rebuild the stocks.

23             Part of rebuilding the stocks from  
24      the 65 percent estimate of biomass to the 100

1       percent MSY, part of that is laying off of these  
2       small fish.

3               The recreational -- traditional  
4       recreational fishery on swordfish is documented as  
5       200 fish, 200. We're already above that. And  
6       that's okay, and I agree with Mike Leech that the  
7       recreational fishery will probably never reach 100  
8       metric tons. And at that level I see no problem,  
9       see no problem at all. But you do need to realize  
10      that you've already expanded to beyond what was  
11      documented in the past. And it may not be just on  
12      the east coast of Florida, but up the coast there  
13      are thousands of boats, recreational boats fishing  
14      the canyons, chunking tunas and putting out baits  
15      for swordfish.

16             And there are small fish caught and  
17      there are big fish caught and -- you know, I think  
18      everybody tries to catch the big fish, but we've got  
19      to figure out what's being caught, what isn't being  
20      caught. We've been over that stuff.

21             But we're all responsible and for the  
22      life of me, and I'm a very ad -- you know,  
23      recreational fisherman myself, I can't see where  
24      more than one swordfish per vessel, a recreational

1 vessel, and maybe two swordfish for a charter head  
2 boat vessel, why we would need more.

3 Now, you can keep on fishing, don't  
4 have to stop fishing, but until the National Marine  
5 Fisheries Service has a handle on enforcing the no  
6 sale situation, I can't see just wide open, because  
7 that's the problem. It's not your fishery that's  
8 the problem. It's the pirates that are the problem.  
9 But if -- you know, the bigger the bag limit, the  
10 more the problems you're going to have.

11 And the folks that went to that  
12 hearing, basically what they said is we want to set  
13 up the same nightmare as you got up the coast with  
14 bluefin tuna. You don't want to go there. And you  
15 don't want your fishery to get involved in that.  
16 And yeah, let's call them pirates because they're  
17 not part of either.

18 It is a fragile recovery. We hope  
19 that we're still on track. The biggest part of the  
20 recovery is going to be keeping the IUU down. We  
21 need that tagging program. We need to know what's  
22 going on. We need observers, especially on these  
23 hand gear, you know? We need dockside intercepts.

24 On the limited access permits, what

1 we'd recommend is there's no reason that somebody  
2 would give up a limited access permit, no matter  
3 what it was for. There's something wrong here. And  
4 when I go home, I intend to call Carol and try to --  
5 you know, find out which specific boats are involved  
6 so that -- try to figure out what the heck is going  
7 on here. But what we recommend that the agency do  
8 is switch to a calendar year.

9           There's only a few boats involved  
10 now, so we think that it would be easier for you, we  
11 think it would be better for us if it's a set date  
12 involved, we can all -- you know, talk up -- you  
13 know, it's coming up on renewal or have you renewed,  
14 instead of the way it is, I don't find out what's  
15 going on until there's a problem and it's too late.

16           So, I would strongly recommend to  
17 switch to a calendar year. And I did speak with  
18 Buck Sutter and he seems to agree that that would  
19 not be a large problem. Maybe a simpler -- you  
20 know, solution from your end.

21           On the quotas, avoid reallocation,  
22 avoid reallocation. One of the things that we don't  
23 know right now is exactly -- you know, what the  
24 capabilities of the U.S. pelagic longline fishery

1       are or aren't, because quite frankly, you know, we  
2       tore this fishery up so much. Now, until it has a  
3       chance to settle down, we won't know.

4               As far as unharvested, no. We  
5       haven't underharvest -- we don't have an  
6       underharvest. Actually, for the last year reported  
7       we have an overharvest. But by the end of 2001,  
8       instead of 200 boats, you only had less than 100,  
9       between 90 and 100 boats that were actually active  
10      in this fishery. The rest of them are gone.  
11      Whether they'll be back or not, we don't know. We  
12      don't know. And what our capability is, we won't  
13      know until the NED, which is the last swordfish  
14      directed fishery involved, until that's back on  
15      line, we won't know what the capabilities are or  
16      aren't.

17             As far as the incidental, incidental  
18      pelagic longline, incidental pelagic longline is  
19      part of the 98 percent that -- you know, this  
20      fishery has been taken for a good number of years.  
21      We've always fought against unnecessary waste. I  
22      believe that there's some justification in the FMP  
23      process for six fish. I believe that the industry  
24      had some justification for 15 fish for the pelagic

1       longline incidental. And I think that that is  
2       something that should be taken care of and that I  
3       guess you need to run some recent calculations and  
4       the format is all right in the FMP and you know,  
5       we've made numerous comments on that in the past.

6               UNIDENTIFIED: Nelson, can I  
7       interrupt you right there?

8               NELSON BEIDEMAN: Yeah, I only have  
9       one more. Sure.

10              UNIDENTIFIED: No, I just -- I have a  
11       question. What are you supporting on that  
12       incidental? Have you got a number?

13              NELSON BEIDEMAN: We would support  
14       what's justified between six and 15. In the past we  
15       pushed for the pelagic longline incidental to have  
16       15, 15 fish. And that's what we had found justified  
17       in the scientific information that we had. But we  
18       think that the National Marine Fisheries Service  
19       should -- you know, take a look at it and they'll  
20       see the format that they had laid out and put in the  
21       recent data and let's see what's justified. But we  
22       think that they'll find -- you know, somewhere  
23       between six and 15 fish indeed is justified. And  
24       unnecessary waste is just stupid, and this fishery

1 would never fight against that.

2 On the circle hooks, there were some  
3 questions about circle hooks and I think it's  
4 absolutely amazing that we've been able to get a  
5 group of our guys to indeed change the sacred  
6 terminal end of their gear and try circle hooks.  
7 It's still up in the air what we're going to try,  
8 but it looks like it's coming down to like an 18-0  
9 offset and an 18-0 non-offset circle hook. And  
10 that's about that big. It's big. You know?

11 I worry about, you know, we're  
12 probably not going to have sharks bite that hook  
13 off, but then that might be a good thing temporarily  
14 anyway, because they haven't found a way to count  
15 our bit-off leaders. So, let's make a little check  
16 on the CPUE of the blue sharks, because the  
17 foreigners are harvesting them heavy.

18 But one of the problems with the  
19 circle hooks has been it's already been documented  
20 that the 16-0 non-offset circle hook lost 31 percent  
21 of the targeted swordfish catch in the Azores study.  
22 But that was a very limited study, one boat. We  
23 don't have a lot of faith in that study.

24 So what we've said is well, let's go



1 to a little bit bigger hook, a little bit more gap,  
2 and that's important for -- you know, hooking the  
3 sword, and let's try both the flat and the offset,  
4 moderate offset, not extreme offset, so that we can  
5 see if we can still prevent those ingestion events  
6 with the turtles and retain some of that 31 percent  
7 loss of targeted catch. Because 31 percent would  
8 never be acceptable in the international community  
9 where this stuff will really count.

10 So, that's what's happening with  
11 circle hooks and as far as I'm concerned, it's a  
12 miracle I can get a group of guys to agree to try  
13 them at the NED, because it's been pretty tough, you  
14 know, on circle hooks with our fleet.

15 The Azores fishery is a blue shark  
16 fishery. They catch about, you know, three times as  
17 many blue sharks as they do swordfish, and they keep  
18 them. You know? All the European markets are  
19 scopping up on them, and that is going to be a  
20 future problem. But that's all I had and I tried to  
21 be brief. So, thank you.

22 MODERATOR CHRISTOPHER ROGERS: That  
23 was only three and a half minutes. That was pretty  
24 good.

1 NELSON BEIDEMAN: Three and a half.

2 MODERATOR CHRISTOPHER ROGERS: Mau  
3 Claverie.

4 MAUMUS CLAVERIE: I wanted to respond  
5 to something Glenn said that -- about the difference  
6 between the commercial and the recreational fishery  
7 in the closed area. Am I correct that if a  
8 commercial fisherman has a permit to fish for  
9 swordfish with a rod and reel, he can fish in that  
10 area for swordfish?

11 MODERATOR CHRISTOPHER ROGERS: Yeah,  
12 the area closure is for pelagic longline gear. So,  
13 if a person had qualified, even though they were  
14 closing pelagic longline gear to qualify with that  
15 catch history for swordfish as a directed permit,  
16 they can use hand gear or rod and reel to fish for  
17 swordfish and sell those from that closed area.  
18 Likewise, those with the hand gear permit --

19 MAUMUS CLAVERIE: So then Glenn's  
20 statement that the commercial fishery was totally  
21 cut out of the that area is incorrect, because the  
22 conclusion from that was therefore you should not  
23 let the recreational fishery fish in there. But the  
24 commercials can fish in there with rod and reel,

1 just like the recreationals can. Okay. That's --

2 MODERATOR CHRISTOPHER ROGERS: Or the  
3 hand gear permit, as well.

4 MAUMUS CLAVERIE: Okay. And the  
5 other thing is there seems to me a substantial  
6 mortality difference between the longline fishery  
7 and the rod and reel fishery. And that -- when  
8 you're trying to not have a bycatch of baby  
9 swordfish, the rod and reel fishery can accommodate  
10 that. If it's called bycatch, at least it's not  
11 dead. You know, the technicality of is it bycatch  
12 or not, but so that to me would be the big  
13 difference between the gears.

14 And whether it's commercial or  
15 recreational, rod and reel, I had heard that there  
16 was a commercial rod and reel fisherman with  
17 legitimately honest to God commercial fishing for  
18 swordfish in that area, but he quit because he  
19 didn't like to be up all night and sleep all day.

20 MODERATOR CHRISTOPHER ROGERS: You  
21 have a response to one of those points, Nelson?

22 NELSON BEIDEMAN: Yeah. Glenn  
23 misspoke. What Ellen was saying was much more  
24 accurate. Okay? What the agreement -- and it was

1 not just in the two groups that are working, but a  
2 general -- you know, support for including the  
3 Congressional offices was no sale of any HMS by any  
4 gear type in those closed areas.

5 MAUMUS CLAVERIE: Well, Nelson,  
6 what's the objection if it's legitimate, really a  
7 commercial fisherman, with the proper licenses and  
8 all fishing with a rod and reel?

9 NELSON BEIDEMAN: Well, the basic  
10 thought being that, you know, these areas are being  
11 closed because they're nursery grounds for the  
12 swordfish and other conservation reasons and that if  
13 we're going to displace one -- you know, commercial  
14 fishery out of there we're not going to allow  
15 another commercial fishery to come in because that  
16 would basically be a reallocation which is against  
17 other intent of other laws. And that was the  
18 feeling on it. And there was a lot of support for  
19 that.

20 But that had nothing to do with  
21 recreational fishing in those areas. Because  
22 recreational fishing in those areas was equally  
23 supported by all.

24 UNIDENTIFIED: (Inaudible.)

1                   NELSON BEIDEMAN: No, he misspoke a  
2                   little bit, because he put landing into it and --  
3                   you know, that was not in the equation.

4                   But as far as the mortalities, you  
5                   know, Mau, I love you, but we don't know. We don't  
6                   know what the post-release mortalities are on  
7                   pelagic longline. We don't know what the post-  
8                   release mortalities are on rod and reel. And that's  
9                   something that we have to find out along our quest  
10                  here.

11                  MAUMUS CLAVERIE: Take the post-  
12                  release mortality totally out of the equation. We  
13                  know that a much higher percentage of the small fish  
14                  come to the boat already dead on a longline than  
15                  they do on a rod and reel. And that right there is  
16                  a big difference. Maybe Glenn can resurrect them,  
17                  but maybe not the rest of us.

18                  NELSON BEIDEMAN: One of the things  
19                  that the domestic swordfish species working group  
20                  came to a conclusion about a month ago is that first  
21                  we have to take a look before we get all upset and  
22                  you know, go on in this direction or that direction  
23                  on this, we got to take a look at -- you know, what  
24                  is the size of this problem, you know?

1                   If it's a problem that's contained  
2                   within, you know, the 100 metric tons that Mike  
3                   mentioned, you know, I don't think it's a real  
4                   problem. I don't think it's worth millions of  
5                   dollars, you know? But can it stay there? Or is it  
6                   expanding, you know?

7                   UNIDENTIFIED: Yeah, I'd just like to  
8                   comment on one thing that Ellen Peel said before she  
9                   snuck out of here about noontime -- and I don't mean  
10                  sneak, she had to go someplace -- but she had said  
11                  that 90 out of the 110 people that were at the  
12                  hearing in Fort Lauderdale were interested in  
13                  selling their catch.

14                 And I think that's totally -- I don't  
15                 know where she arrived at that figure, but I know  
16                 probably half the people that were in that room and  
17                 there were some ex-commercial guys and there were  
18                 some current commercial guys that were in that room,  
19                 and I'm sure they would -- that's what they do.  
20                 They sell fish for a living and I'm sure they would  
21                 have liked that. I don't think there was more than  
22                 eight or ten of them. And the rest I believe were  
23                 true recreational fishermen that had no interest in  
24                 selling their fish. And I'd just like to clear that

1 up, that if it sounded like most of the people in  
2 the room wanted to get big quotas because they  
3 wanted to sell the fish, and that just wasn't the  
4 case.

5 The other comment I'd like to make is  
6 that if you put a two fish limit or a one fish limit  
7 or a three -- or any kind of fish limit on there,  
8 it's probably not going to affect the minority of  
9 people that are going to sell their fish anyway,  
10 because the guys that are out there to catch and  
11 sell their fish, they're going to sneak them in  
12 someplace. So, bag limits are not going to affect  
13 the illegal guys.

14 And the only other comment I have is  
15 that I happen to know one of the guys that is a  
16 commercial rod and reel swordfish guy out there, and  
17 as Mau said, he was doing very well in the  
18 summertime, but he eventually burned himself out  
19 because he wanted to see daylight once in a while.  
20 But he was doing very well, very well, and making a  
21 pretty good living.

22 So, that's certainly a possibility  
23 for the guys that do want to sell fish. Get a  
24 license and apparently the price of directed permits

1       has now come down to a point where it's feasible and  
2       those guys are still welcome to go out there and  
3       catch them with a rod and reel.

4               UNIDENTIFIED: I'd like to start off  
5       by agreeing with Nelson that in general I like the  
6       concept that permits expire on particular days for  
7       everyone. You said calendar year, though, Nelson.  
8       I would say June 1 because it matches the fishing  
9       year and therefore you're legal in the fishing year  
10      as it begins.

11             Moving on from there, and I'm not  
12      going to get into whether effort controls of any  
13      kind are needed on recreationals, I'll leave that to  
14      other people who know the stats and who will argue  
15      justification with you. But from a recreational  
16      industry standpoint, and this is one of the places  
17      that we differ from commercials, not on an argument  
18      basis but on a philosophy base, size limits -- let  
19      the recreational -- recreational fishermen are  
20      dreamers, you know, they're optimists. They're  
21      always convinced that this is the day I'm going to  
22      catch a lot.

23             If you need to do effort controls, do  
24      it by size so that they're proven wrong, but don't



1       put this cap over top of them that they can see.

2       You can set the bar as unrealistic as possible or as  
3       you need to, to go for a certain tonnage.

4               I mean, if what we're talking about  
5       is a certainty quantity of dead fish, then all I'm  
6       saying is the way you achieve that is far better for  
7       my industry if you do it through size controls as  
8       opposed to bag limits.

9               And I'd say that's true in all the  
10       fisheries in general, just as you consider  
11       recreational fishing in the recreational fishing  
12       industry more than anything that the tackle shops,  
13       the charter boats, all of those people -- we sell  
14       dreams, we sell safari, you know?

15              I mean, come with us, we'll show you  
16       a lion. Sometimes he's there, sometimes he's not.  
17       But if you know from the time you get in the Jeep  
18       you're not going to see a lion it's not near as  
19       exciting.

20              UNIDENTIFIED: Well, I kind of  
21       disagree with the size limit, but I just think when  
22       you're looking at a marlin, a bluefin tuna, a  
23       swordfish, and we don't have a fishery in our area,  
24       so I really kind of should hesitate, I guess, to

1 comment, but looking at the future, I consider that  
2 a trophy.

3 And in my business, I think that -- I  
4 mean, I really don't have a problem with the minimum  
5 size and a bag limit. And I think in the charter  
6 industry that my customers wouldn't have that  
7 problem, you know?

8 We certainly have not had a problem  
9 with the one fish bluefin limit, even though they  
10 can catch four north of us, we still have been able  
11 to get by that. The marlin, you know, I haven't  
12 kept a marlin in ten years with the exception of  
13 maybe one or two tournaments.

14 So, from a true recreational  
15 standpoint, I feel like that the bag limit is  
16 certainly feasible and from a biological standpoint  
17 I feel like the minimum size is an important issue,  
18 especially if they can breathe.

19 And to add to this program, and it's  
20 right back to where we started, you know, if the  
21 billfish -- or the marlins, blue and white, the  
22 bluefin tuna and the swordfish are all going to be  
23 so to speak a trophy fish, then North Carolina and  
24 Maryland are on board tagging fish now. Let's see

1       -- I mean, Florida's right there I'm sure -- I mean,  
2       they -- I feel like got the resources and the people  
3       to do the same thing. Let's get the rest of the  
4       states in line and let's get them counted. Thank  
5       you.

6                   UNIDENTIFIED: Let me ask before we  
7       move on. 3:30 is coming up on us and the yellowfin  
8       and the miscellaneous issues, the logbook and the  
9       charter and head boat, I'd like to be able to cover  
10      them and get on the record before we leave. And  
11      we're going to leave, you know, at that time.

---

12                   BIGEYE, ALBACORE, YELLOWFIN, SKIPJACK TUNA

13                   DATA COLLECTION - MANAGEMENT

14                   MODERATOR CHRISTOPHER ROGERS: Okay.  
15       Well, let's move on to BAYS, our bigeye, albacore,  
16       yellowfin, skipjack. Is there some way to project  
17       this on the screen? This is shutting down. How did  
18       that happen?  
19

20                   With respect to BAYS tunas, the only  
21       thing we really have going with respect to bigeye  
22       would be that after the mail vote was tallied from  
23       last year's ICCAT meeting, a bigeye tuna statistical  
24       document program was adopted by ICCAT. So, we will

1       be issuing a proposed rule that would require a  
2       bigeye tuna statistical document to be present upon  
3       importation to any ICCAT contracting party and  
4       because a lot of the bigeye are exported to Japan, a  
5       contracting party, we would implement a requirement  
6       upon export.

7               So, certainly those tuna dealers that  
8       worked with bigeye will be involved in that  
9       information collection program and it will be very  
10      similar to what was adopted for bluefin tuna. We're  
11      not a major player in the bigeye tuna fishery.  
12      Although it is a significant fishery, both  
13      commercially and recreational from our perspective,  
14      in the grand scheme of things Atlantic-wide we're a  
15      minor harvesting nation. In fact, the ICCAT  
16      recommendation itself exempts us from the entire  
17      suite of catch allocation restrictions for any  
18      nation taken less than 2,100 metric tons, which  
19      certainly that's where we are.

20             So, nothing other than the bigeye  
21      statistical document program and some trade  
22      restrictions for certain countries with respect to  
23      bigeye.

24             Skipjack tuna, nothing really to say

1       there. ICCAT hasn't taken it up as a major  
2       management species. Certainly, the Gulf of Guinea  
3       fisheries on skipjack have issues with respect to  
4       bycatch of yellowfin and bigeye -- juvenile  
5       yellowfin and bigeye tuna, but nothing that really  
6       would affect the United States in terms of binding  
7       recommendations that have to be implemented.

8               Albacore is a pretty strange, unique  
9       situation with respect to the United States. Given  
10      the ICCAT stock assessment for northern albacore and  
11      the interaction between the international management  
12      and our own domestic legislation, Magnuson-Stevens  
13      Act, we were required to and did in fact list  
14      northern albacore as an overfished species under our  
15      Magnuson Act requirement to list those species --  
16      fisheries so designated.

17             Similar to what we had adopted in our  
18      own fishery management plan, for bluefin tuna and  
19      swordfish, our strategy for rebuilding northern  
20      albacore was stated as pursuing an international  
21      rebuilding program, recognizing that there's nothing  
22      that the United States could do independent of  
23      international action for swordfish or bluefin tuna  
24      could rebuild that stock under the requirements of

1       the Magnuson Act, we pushed for and succeeded in  
2       getting ICCAT to adopt rebuilding programs for  
3       bluefin tuna and swordfish and need to do similar --  
4       undertake similar activity with respect to northern  
5       albacore.

6               For those who recall, we did get an  
7       allocation of northern albacore of 607 metric tons  
8       out of a total catch hearing agreement of over  
9       30,000 in the North Atlantic Ocean. So, we're  
10      definitely minor players there and it's tough for us  
11      to be a driving influence with respect to getting  
12      ICCAT to do a rebuilding program for northern  
13      albacore when we are such a minor player.  
14      Certainly, we had a bigger voice in bluefin tuna and  
15      North Atlantic swordfish.

16             On the one hand, we had two issues  
17      facing us at last year's ICCAT meeting with respect  
18      to northern albacore. One was advancing our agenda  
19      under Magnuson Act requirements to get a rebuilding  
20      program in place. On the other hand, was trying to  
21      get a little more flexibility on our 607 metric ton  
22      allocation. That was derived from an average catch  
23      over several recent years and on average it works  
24      fine, but it is an opportunistic fishery. When

1        albacore are present in good numbers off our coast,  
2        they are picked up by both commercial and  
3        recreational fisheries.

4                So, in any given year there was  
5        pretty much an even chance of exceeding 607 metric  
6        tons or being below it. And depending on the luck  
7        of the draw and where your starting point was, we  
8        could end up in a situation of being overharvest of  
9        that 607 metric tons and therefore having to deduct  
10       it from the subsequent year; and therefore have a  
11       lower target, which perhaps we have an increasing  
12       probability of exceeding that lower target and  
13       therefore deducting more in the subsequent year, and  
14       so on and so forth.

15               I guess in one sense it could be a  
16        positive spiral or a negative spiral. So, we sought  
17        some flexibility by sort of increasing that  
18        threshold at ICCAT last year, something on the order  
19        of 1,000 metric tons is what we were looking for, or  
20        even 800, to lessen the chances that we would end up  
21        in a negative spiral situation of exceeding the  
22        quota and paying a penalty and therefore setting  
23        ourselves up for exceeding the quota in subsequent  
24        year.

1                   Personally, I found that pursuing  
2                   both goals was folly in trying to advance our U.S.  
3                   proposal on the albacore agreement because you can't  
4                   ask the international community to reduce the  
5                   overall catch while you're asking for a slight  
6                   increase. You know, certainly in the grand scheme  
7                   of things, asking for 200 more metric tons or so out  
8                   of 30, 33,000 metric tons is -- might be viewed as  
9                   of little consequence, but the EU certainly rebuffed  
10                  us and sort of I think -- as Bob Hayes put it at the  
11                  ICCAT Advisory Committee meeting, embarrassed us by  
12                  sort of exposing this U.S. proposal as asking for  
13                  more quota for itself while asking everybody else to  
14                  reduce.

15                 So, it does come up for renegotiation  
16                 at the upcoming ICCAT meeting and certainly it is an  
17                 issue of deciding how we can advance our Magnuson-  
18                 Stevens Act requirement to achieve a rebuilding  
19                 schedule or rebuilding program for northern albacore  
20                 but still not hamstringing ourselves with respect to  
21                 our somewhat opportunistic fishery.

22                 So, I don't know that there's any  
23                 real comment necessary on this issue other than the  
24                 fact that it is a somewhat difficult task and we are



1 mindful of the way our fishery operates and we'll  
2 pursue it at ICCAT in a way that protects our  
3 interests. Joe McBride.

4 JOSEPH MCBRIDE: Yes, thank you,  
5 Chris. Just contrary to what you say, the last  
6 couple of years we've had a paucity of yellowfin as  
7 compared to historical catches and our main fishery  
8 offshore in August and September has been the  
9 longfin. So, it's not something that we see as many  
10 years back when we didn't go as far, we see them  
11 more consistently now, because we're traveling  
12 further offshore toward the edge in order to catch  
13 tuna in general, and albacore in particular.

14 So, it's very important. In the last  
15 couple years it supersedes by far our yellowfin  
16 catches. And you know, it's a good eating fish and  
17 it's great for the public. It's, as we say, you  
18 know, user friendly. It's a nice fish and we enjoy  
19 it and we do want you and appreciate your looking to  
20 maintain a quota for us that's pragmatic and -- you  
21 know, doesn't end us up fighting amongst each other  
22 for scraps later on.

23 MODERATOR CHRISTOPHER ROGERS: Right.  
24 (Inaudible) we wish to avoid is orchestrating a

1 whole bunch of regulatory processes domestically for  
2 an opportunistic fishery. But on the same token, we  
3 are bound under the law to continue to pursue a  
4 rebuilding program.

5 ICCAT at the current time seems to be  
6 satisfied with replacement yield, recognizing that  
7 there wouldn't be -- at a replacement yield level  
8 wouldn't be decreasing the stock any further, but  
9 wouldn't be increasing the stock as required under a  
10 rebuilding program. Joe.

11 JOSEPH MCBRIDE: Again, on the same  
12 issue, and it applies to any of the BAYS. And I  
13 mentioned it briefly before, but for the record,  
14 there are many people in this particular user group,  
15 the sportfishing industry, in the BAYS area, that  
16 are not satisfied with our statistics.

17 I don't know how their background,  
18 how you came to 609 metric tons, whether they said  
19 this is what you reported, both commercially or  
20 recreationally. But I know in the case of yellowfin  
21 tuna we're not at all satisfied with their  
22 allocations or potential allocations and the history  
23 of the landings has not been in our eyes  
24 appropriately surveyed, certainly not in the

1 recreational area in the case of yellowfin, and it  
2 can be done and -- by a state-by-state basis and get  
3 a total accumulation as to what historical landings  
4 are, so if you do need to utilize them.

5 I don't know if you did that with the  
6 albacore or you just took ICCAT's -- what they gave  
7 you or where your figures came from. I'm not  
8 knowledgeable about ICCAT.

9 MODERATOR CHRISTOPHER ROGERS: Well,  
10 that's exactly right. What we had reported to ICCAT  
11 was what was used, basically looking at average  
12 catches reported to ICCAT over I think a five-year  
13 time horizon at that 2000 meeting.

14 So, it was a formula which I guess  
15 was suitable on average, but recognizing that it is  
16 an opportunistic fishery that can fluctuate -- I  
17 don't know want to say wildly, but we did have years  
18 where we reported the catch of 2,000 metric tons and  
19 did exceed 600 metric tons on a number of years in  
20 that ten-year time series on the ICCAT table. Gail.

21 GAIL JOHNSON: It would be  
22 interesting to go back through records because years  
23 ago I can remember on our boat coming home and  
24 having a whole bunch of albacore aboard. I hesitate

1 to give a percentage, but that particular year -- I  
2 think there were two years and I don't they were  
3 consecutive years that they showed up. So, I  
4 appreciate your efforts.

5 MODERATOR CHRISTOPHER ROGERS: Well,  
6 they certainly weren't fruitful last year and I'm  
7 still at a loss as to how to pursue it more  
8 diplomatically next year. Bob.

9 ROBERT MCAULIFFE: Yes, we do and I  
10 think they're a little bit larger than what you  
11 catch up north, because the average size is 55  
12 pounds, Caribbean albacore.

13 But again, I'm going back to we do  
14 need to put more effort into getting data collection  
15 on all the BAYS within the Caribbean. We need to  
16 concentrate on getting a system that will start  
17 getting you numbers now, not two or three, four  
18 years down the road. What you have in place now is  
19 not working, and we're there to work with you, but  
20 we need to be approached and we need to get  
21 everybody involved involved. I just keep harping on  
22 it.

23 MODERATOR CHRISTOPHER ROGERS:  
24 Nelson.

1                   NELSON BEIDEMAN: Yeah, I want to put  
2                   out a little bit of a solicitation. If anybody,  
3                   recreational, commercial, environmental, would want  
4                   to help us catch our 100 metric ton quota of South  
5                   Atlantic albacore, we'd certainly appreciate it.  
6                   And --

7                   UNIDENTIFIED: (Inaudible.)

8                   NELSON BEIDEMAN: Well, I think maybe  
9                   a boat might be warranted, especially if there's  
10                  rollovers and all of a sudden we have 200 metric  
11                  tons. But we worked real hard and we did get our  
12                  fair share down there.

13                 MODERATOR CHRISTOPHER ROGERS: Well,  
14                 with respect to yellowfin then, we're in a little  
15                 bit different situation. It's not listed as  
16                 overfished under Magnuson because the ICCAT stock  
17                 assessment indicated it was at a level of full  
18                 exploitation, so not necessarily a problem at the  
19                 last stock assessment. I guess you're right at the  
20                 cusp of being overfished or not at that level and  
21                 there is a continuing concern internationally about  
22                 the take of juvenile yellowfin in those central  
23                 Atlantic purse seine fisheries.

24                 What is an operative recommendation

1       for the United States is the existing recommendation  
2       that ICCAT contracting parties restrict their  
3       effective level of fishing effort to the 1992 level.  
4       We have implemented that through a limited access  
5       program in the pelagic longline fishery and a three  
6       yellowfin tuna per person limit in the recreational  
7       fishery. It is not limited access, so to speak, in  
8       the hand gear fishery. Those general category tuna  
9       permit holders, who focus on bluefin tuna throughout  
10      part of the year, can also target yellowfin on  
11      occasion, and many of them do as well as charter  
12      headboat operators throughout the South Atlantic,  
13      Mid-Atlantic and potentially the Caribbean, as well.

14               So, we do have a yellowfin tuna  
15      fishery that is currently operating, currently  
16      accounted for at ICCAT, but the concern that has  
17      been expressed without any change basically over the  
18      last -- I don't know, I've been here since '92  
19      within the Division and I've heard it pretty much  
20      the first day I was on the job, because it was at an  
21      ICCAT Advisory Committee meeting, and probably every  
22      day since then is our yellowfin tuna statistics are  
23      not representative, and if ICCAT does declare it as  
24      overfished and starts a catch allocation scheme.

1       We're going to be on the short end of the stick by a  
2       large margin.

3               The received wisdom seems to be that  
4       our yellowfin catches, commercial and recreational,  
5       are on the order of 20,000 metric tons a year, yet  
6       our ICCAT report and statistics are always on the  
7       order of 5, 7, 8,000 from one year to the next. And  
8       what Jerry Scott had done at the direction of the  
9       assistant administrator was convene a meeting of the  
10      states. I believe we had done that in 1994 to try  
11      to get a handle on state data collection programs.  
12      I remember going to that meeting. Not all states  
13      were able to send somebody.

14             We did look at some of the issues  
15      with double counting between state and federal --  
16      got you on the list, Joe, if you need to put your  
17      hand down, I don't mean to leave you hanging there  
18      -- and that actually was also -- that meeting in  
19      coordination with the states was actually also  
20      required the subsequent year when Atlantic Tunas  
21      Convention Act was amended or reauthorized in 1995  
22      and amended to include a requirement that the  
23      Secretary shall publish a yellowfin tuna historical  
24      summary of yellowfin tuna statistics, take public

1 comment and amend those statistics accordingly.

2 We published the proposed statistics,  
3 which were not much of a change from what had  
4 previously been published. We got a lot of negative  
5 public comment again that we were orders of  
6 magnitude below what was actually occurring.  
7 Unfortunately, there wasn't much we could do with  
8 that public comment in terms of documenting how the  
9 numbers should change.

10 Craig Brown worked pretty hard, along  
11 with others in the Southeast Fisheries Science  
12 Center, and published an ICCAT report I believe at  
13 the 1998 SCRS meeting, which is basically a revision  
14 to U.S. landings statistics for the BAYS tunas,  
15 including the best yellowfin tuna estimate he could  
16 come up with, basically looking for documented  
17 landings in state and federal systems, trying to  
18 avoid double counting where it was apparent. If  
19 there was any question about double counting, he  
20 would basically opt in most cases for the higher of  
21 the two numbers, just to give benefit of the doubt,  
22 so to speak, as to the accuracy of the various  
23 sources of statistics. But still yet -- I don't  
24 have the figure in mind, but I think that was on the



1       order of averaging about 7,000 metric tons per year.

2               And I did promise to get Bob Pride a  
3       copy of that paper. I do have it electronically, so  
4       I can e-mail it to anyone who wants to see it. It's  
5       no longer posted on the ICCAT Web site. You have to  
6       order the compendium, the hard copy, to get it. But  
7       for those who want to review that 1998 effort of  
8       revising our catch statistics for BAYS tunas, we can  
9       get you a copy of that.

10              But clearly that's not satisfactory  
11       from the agency's perspective or obviously the  
12       fishing community's perspective that the -- there's  
13       an apparent disconnect between what the agency has  
14       available to it in terms of catch statistics for  
15       yellowfin and what actually is occurring. And it  
16       will come to a point, I presume, as it has with many  
17       other species managed internationally, that a catch  
18       allocation scheme will come into play.

19              So, we're losing time, so to speak.  
20       You can't just go to ICCAT and say that well, by the  
21       way, we're revising our catch history upwards from  
22       the maximum of 7, 8,000 tons a year to 15, 18,  
23       20,000 a year, without some substantial  
24       documentation, especially since we had undertaken

1       that effort in 1998 to do a revision, and they would  
2       certainly ask for the documentation, the backup, so  
3       to speak, of why your 1998 revision wasn't similar  
4       to any future revision, should we have some means of  
5       addressing or assessing the larger figure that a lot  
6       of people have been quoting in recent years.

7               I think that some improvement will be  
8       registered in the new format for the Marine  
9       Recreational Fishing Statistics Survey with the  
10      charter boat headboat frame -- survey frame  
11      methodology.

12             Previously the charter boat -- the  
13      for hire sector had been assessed similar to private  
14      recreational anglers through a random digit dialing  
15      in coastal county households. And our chances of  
16      picking up a charter boat in the random digit  
17      dialing of a coastal county households was pretty  
18      low. So, you had very uncertain estimates of  
19      activities in the for hire sector.

20             Currently the agency has worked with  
21      the states and with the commissions to develop what  
22      we would call a survey or sample frame for the  
23      entire charter and headboat permit in states where  
24      they're permitted or in states where they're not

1       permitted, trying to work with the clubs and the  
2       communities and the associations. But basically  
3       they have a survey frame now, hopefully  
4       representative -- or a census actually of all the  
5       known operating charter boats and headboats in any  
6       state and using that frame to make the dialing  
7       calls. And I believe we've already seen some  
8       evidence of enhanced data collection with respect to  
9       Highly Migratory Species within the Gulf states and  
10      we would expect to see some improvements along the  
11      Atlantic seaboard as these fisheries come on line in  
12      spring and summer.

13               So, that's one effort. We need to  
14      connect better with the states regarding the state  
15      commercial reporting systems and find out why we're  
16      not capturing it, if in fact there's big gaps in our  
17      ICCAT reporting system.

18               I've heard comments that part of the  
19      problem is illegal, undocumented sales. Not illegal  
20      in the sense that maybe the vessels are not  
21      permitted to do so, but illegal in the sense that  
22      they're not perhaps sold through licensed dealers or  
23      documented on dealer reports or documented in the  
24      logbooks.

1                   So, there's a major problem here.  
2           We've heard about it for several years and clearly  
3           we need to fix it. And I've come to the conclusion  
4           that the Service can't fix it without a greater deal  
5           of cooperative efforts with the states and with the  
6           commissions. That's what I see on the horizon with  
7           yellowfin.

8                   I had Joe, I think, Wayne Lee, Mau  
9           Claverie, and Nelson. Nelson, you --

10                   UNIDENTIFIED: (Inaudible.)

11                   MODERATOR CHRISTOPHER ROGERS: And  
12           Rom, Rom Whitaker. Okay. Let's start with Joe  
13           McBride.

14                   JOSEPH MCBRIDE: Yes, again Chris, in  
15           regard to the statistics, just for the record, Steve  
16           Stone asked me to ask you to introduce -- and I've  
17           seen it and I just don't have a copy with me --  
18           whatever letter regarding the ICCAT statistical  
19           survey of yellowfin and the suggestion that you  
20           utilize the state landings on a contemporary basis  
21           since the North Carolina, for example, I believe  
22           Maryland also, had been taking the state surveys on  
23           a little more accurate basis to the point and that  
24           the North Carolina landings alone in yellowfin

1       exceed our ICCAT numbers, you know, in one state  
2       alone. So, if that's true, you know, obviously  
3       something's askew in the compilation of these  
4       figures.

5               Secondly, you know, for a good number  
6       of years, the charter and headboat industry in the  
7       northeast -- I can only speak for -- because of our  
8       mandated logbooks has a lot of information. I don't  
9       know if you're utilizing it. Allegedly, it sits  
10      somewhere up in Gloucester in a barn and not being  
11      overly utilized if at all.

12             So, that information should be there  
13      for you for a good number of years. And you know,  
14      yellowfins are a very, very important sportfishing  
15      industry commodity, and -- you know, we're concerned  
16      about it. We don't want to get shortchanged if  
17      ICCAT comes out with something that's going to put  
18      us at a great disadvantage. Thank you.

19             MODERATOR CHRISTOPHER ROGERS: Wayne  
20      Lee.

21             WAYNE LEE: Thank you, Chris. On  
22      this new frame that you have, that you're talking  
23      about charter headboat, I presume, and I hope I'm  
24      correct, that that ties in with integrating our HMS

1 data collection with ACCSP; right?

2 MODERATOR CHRISTOPHER ROGERS: Yes.

3 The frame was developed under the Marine  
4 Recreational Fishing Statistics Survey, but  
5 certainly those folks in our Office of Science and  
6 Technology are working hand in hand with ACCSP on  
7 programs. Whether there would be some supplemental  
8 -- I know there's some folks in the ACCSP process  
9 who would like to continue with logbooks for the for  
10 hire sector.

11 I don't know to what extent they're  
12 working on avoiding duplication there. But you  
13 know, certainly the survey methodology has been  
14 vetted, so to speak, and worked in coordination and  
15 with the ACCSP project. And in fact, the Gulf  
16 States Commission basically runs the survey in the  
17 Gulf states. They have the contract to do the  
18 dockside intercepts.

19 WAYNE LEE: Okay. The other comment  
20 I'd like to make is again about the three fish bag  
21 limit for yellowfin to limit to a '92 level that you  
22 mentioned. Of course that only holds true if you  
23 don't have any increase in effort. If you have  
24 increase in effort, they're going to go way beyond

1       that.

2                   And when you look at the table on  
3       page 216 of the SAFE Report and I guess I'm becoming  
4       sensitized to F current and our fishing mortality  
5       rates and it shows here as 1.16, which is  
6       overfishing. I realize in your outlook you say  
7       overfishing may be occurring, but I guess the whole  
8       thing there is we're right up there against that  
9       area that we come close to being overfished.

10                  And if that happens, we're  
11       intentionally concerned and our recreational and  
12       charter boat industry about the impact that's going  
13       to have on us, because we're at this three fish bag,  
14       we've had a false limit established there because  
15       we've been limited to -- you know, a three-fish bag  
16       in an underfished fishery, and now if it becomes an  
17       overfished fishery the next step is going to be some  
18       kind of other management measures put on us, and  
19       we're really concerned and I hear concern expressed  
20       about this at every meeting about well, we go to two  
21       bags, one bag, no bag.

22                  And so I don't -- I mean we've  
23       expressed this over and over again and at every  
24       public hearing that I've been to, but I just want to

1       emphasize that data collection is the key to this  
2       thing. We've got to ensure that we have the most  
3       accurate statistics on yellowfin tuna landings all  
4       up and down the coast.

5               This is one of the most important  
6       species to our charter boat and offshore  
7       recreational fishery, and we're really -- you know,  
8       getting concerned that something's going to come  
9       down and impact on us with regards to reducing that  
10      allocation even more. Thank you.

11             MAUMUS CLAVERIE: Yeah, Chris, thank  
12      you. Joe McBride mentioned what I had in mind.  
13      First off, in the Gulf area, we keep hearing the  
14      same thing they're doing in the South Atlantic,  
15      which is, you know, three yellowfin isn't any big  
16      problem, but it's a hell of a place to start from.  
17      And that's the problem.

18             But Joe mentioned some private  
19      records, so to speak, charter boat logs and that  
20      sort of stuff, stored in -- I guess they're  
21      government records now if the government got them  
22      and stored them, but you might resort to detective  
23      work now, because I can cite you two instances in my  
24      personal experience on the Gulf Council in '81 and



1 '84 where private records were used to make  
2 determinations on fishery status. And so the  
3 precedent is set to do that, at least in the United  
4 States, in our fishery management system, and in a  
5 third instance on the redfish panel.

6 But the first one was the king  
7 mackerel Gulf Atlantic Gulf South Atlantic first  
8 amendment to that thing. I was the chair of the  
9 mackerel committee and was pretty intimately  
10 involved, and the bag limit that was set for the  
11 recreational fishery that would accomplish the  
12 mortality reduction goal that was set by the  
13 scientists, I think it was 22 percent, whatever it  
14 was, was determined from two private sources.

15 There was a Texas charter boat or  
16 headboat that had kept meticulous records over the  
17 years and there was somebody in Florida who had kept  
18 meticulous records. These were two private  
19 individuals. And the Southeast Center got a hold of  
20 those records and from those two records they based  
21 the two fish bag limit, which you know, that's all  
22 they had and so there was a private record.

23 And then what was the second one? It  
24 will come to me. But right now --

1                   MODERATOR CHRISTOPHER ROGERS: Just  
2                   to clarify, I don't believe Joe was referring to  
3                   private records. He's probably -- although he  
4                   stepped out, probably referring to the vessel trip  
5                   report.

6                   MAUMUS CLAVERIE: Well, yeah, but  
7                   that's off the vessel, isn't it? It's turned over  
8                   to NMFS or the state --

9                   MODERATOR CHRISTOPHER ROGERS: It's a  
10                  requirement under the Northeast Multispecies Plan.

11                  MAUMUS CLAVERIE: Okay, but that's  
12                  recent. I mean, how far back does that go in  
13                  history?

14                  MODERATOR CHRISTOPHER ROGERS: It's  
15                  been in effect I think since early '90s.

16                  MAUMUS CLAVERIE: Okay. Well, I  
17                  mean, if you haven't used that stuff, for God's  
18                  sakes get out and use it. But what I'm talking  
19                  about is you could double-check that if you could  
20                  find one or two individuals, private anglers or some  
21                  charter captain or something that wasn't in the  
22                  system, that has meticulous records.

23                  The second one in the Gulf Council  
24                  was the swordfish in the early '80s, we were dicking

1       around with this variable season closure thing, and  
2       there was a lot of complaining from the fishing  
3       community that the data upon which the whole thing  
4       was based was all screwed up and biased and it was  
5       only North and South Carolina or something like  
6       that; and I remember Roy Merritt was bitching like  
7       hell because it was way wrong and I pointed out to  
8       him that that's all NMFS has. If you've got some  
9       information that NMFS doesn't have then that's why  
10      you're upset they're not using your information.  
11      Dig it up and give it to him. And he did and he got  
12      a lot of other people to do it, and it substantially  
13      changed the situation.

14               But the point is they were sitting on  
15      private records and until they came under the gun,  
16      if you don't like it, cough up your records and it  
17      will get better. And they did.

18               And then the third instance was --  
19      and NMFS used it and that whole thing fell by the  
20      wayside for some reason, but at least that was an  
21      important feature that they were able to get private  
22      records and substantially -- not only improve their  
23      -- you know, their numbers, but improve the  
24      comfortability of the participants with what NMFS

1       came up with, because they knew everybody's records  
2       were being used.

3               And the third one was in the redfish  
4       fights, and this was in Louisiana. Condry was the  
5       lead scientist on that for the Gulf Council and  
6       NMFS, the Chairman of our Science Committee on  
7       redfish, and he was running the data on his computer  
8       at LSU and we found an elderly gentleman, he's still  
9       fishing today, who had kept meticulous records about  
10      his redfish fishing and his fishing because the  
11      point in time he quit fishing for redfish and  
12      started fishing for speckled trout -- they wanted  
13      redfish left in the marsh -- and Condry was able to  
14      use that as one more double-check against what his  
15      computer was telling him.

16             So, there's three instances that in  
17      my limited experience I've come across where  
18      individual private records were used to great  
19      advantage. And that may be where you are now in the  
20      yellowfin fishery. So, I'd encourage you to send  
21      the detectives out and see what you can find.

22             MODERATOR CHRISTOPHER ROGERS: Rom  
23      Whitaker.

24             ROM WHITAKER: Yes, the yellowfin

1       issue, of course, while it's so important to me that  
2       I've elected to take the wrath of D.C. traffic to  
3       stay here and make these few comments. So, it's  
4       very important to our industry and right on up the  
5       east coast.

6               But there are a few things that I  
7       need -- that I think that need to happen, and I  
8       applaud Joe for doing the logbooks, even though it's  
9       a necessary evil. And I may get skinned alive when  
10      I get back, but I think that we have to have this  
11      information. We've absolutely got to have it from  
12      charter boats who participate in the pelagic fishery  
13      or HMS fishery.

14             And the reason I say this, I look at  
15      the SAFE Report and I'm referring to page 423. And  
16      I look at the landings for rod and reel and I'm  
17      assuming this includes charter boat, but I look at  
18      the landings for yellowfin tunas for the year 2000  
19      and this -- which in my personal observations and I  
20      think Joe might support me on this, and if anybody  
21      else up and down the east coast, but the year 2000  
22      was an excellent yellowfin tuna year. There were I  
23      felt like more tunas caught that year than there  
24      have been in the last five.

1                   There were big fish and there were a  
2                   lot of them. But yet the number in here doesn't  
3                   reflect that. In fact, it says we caught right many  
4                   less than 1996. So, I'm not sure exactly why it's  
5                   showing this.

6                   I know that ICCAT is basing our -- or  
7                   is going to base our catch level on '92 efforts; is  
8                   that a reasonable statement? Or that's --

9                   MODERATOR CHRISTOPHER ROGERS: Well,  
10                  when and if it comes down to a catch allocation  
11                  scheme, I'm sure there will be a lot of countries  
12                  coming in with different views on what the baseline  
13                  should be for that -- you know, certainly countries  
14                  are going to say well, '96 was our high year, so  
15                  let's use that as our baseline. Somebody's going to  
16                  say '94 was ours and there's going to be a lot of  
17                  discussion and politicking on that.

18                 ROM WHITAKER: Okay. Well, anyway, I  
19                 just say that the efforts have increased greatly  
20                 since 1992, and I don't think anybody would not  
21                 argue that point. The states -- as far as the  
22                 states complying, I mean, I guess it kind of bothers  
23                 me that for whatever reason the states have decided  
24                 not to work with you all on getting these fish

1       counted, whether it be for no money or for whatever  
2       reason. I'm not sure. They may have other reasons  
3       that they don't want people to know what they catch.  
4       I'm not sure. But in my opinion it's better to lay  
5       the cards out on the table and let's see -- you  
6       know, let's deal with it.

7               So, I would encourage maybe fishermen  
8       or the guys on the panel to encourage their states  
9       that aren't getting good records or no records to go  
10      back and let's get on board and try to get this  
11      thing coordinated and really get some good records.  
12      And that's pretty much everything I needed to cover.

13             UNIDENTIFIED: I'm going to stick my  
14      neck out a little bit here and throw a couple of  
15      different scenarios out that maybe will make  
16      somebody, you know, think about something that, you  
17      know, surface something more sensible or something.  
18      But Jack, you might want to hear this.

19             What if we -- first we hire a world  
20      class statistician. We don't use in-house, we use  
21      absolutely out of house, world class statistician.  
22      We take our best state or states, whether it's one  
23      or two or what have you, North Carolina especially,  
24      you know, thank God for North Carolina. And we have

1       that statistician extrapolate out those catches to  
2       the effort that's known in the entire area. You  
3       know?

4               Now, I think that type of a system  
5       works for other things. I don't know. I'm not that  
6       worldly. But why wouldn't that pass the  
7       documentation test? And why couldn't we do  
8       something of that nature and finally get past this  
9       problem? It's eating us up and it's going to have  
10      us all at each other's throats.

11             So, Jack, you might want to think  
12      about something of that nature because -- you know,  
13      I don't know that that would be the least scientific  
14      thing that was ever presented to the ICCAT SCRS, but  
15      I'd go world class and out of house.

16             If we don't figure this out, one of  
17      these days we're going over to ICCAT, and because  
18      yellowfin is the absolute most important species in  
19      the Atlantic to most of the commercial fisheries, as  
20      well as our fisheries at home here, we're going to  
21      be trapped in a situation. And the United States is  
22      not going to be able to continue to cower and say  
23      we're not ready, we're not ready, we're not ready.  
24      Because when they're ready it's going to happen, and



1 we better have some plan. You know?

2 And what I would say is in the  
3 interest of the best interest of the United States  
4 is we go through the Table 1 to ICCAT and we pick  
5 out the absolute highest year, no matter what year  
6 it is, and because of the variability of these BAYS  
7 tunas stocks, this might be what we have to do with  
8 albacore, as well. But we tell everybody at ICCAT,  
9 go ahead, pick out your highest year. That will be  
10 your base year.

11 And I think is ours, what, something  
12 like 12, 14,000 metric tons, somewhere back in the  
13 '70s or '80s or something? I'd pick out that  
14 highest year. And then when we come home we can  
15 fight over well, we take the last five years, you  
16 know, to figure out percentages or groups or -- you  
17 know, ten years or no years, and no -- you know,  
18 line between groups or whatever. But first you're  
19 going to have to secure the most pounds for the U.S.  
20 And we're going to be faced with it, and ain't  
21 nobody going to like the outcome. But that's some  
22 of the things I would take a look at now, because we  
23 could go over there this -- they don't have an  
24 assessment this year? Next year. Yeah, we could go

1 over there next year and it ends up being the year  
2 for the yellowfin. And we don't know who's going to  
3 leak (inaudible) --

4 UNIDENTIFIED: Your microphone died.

5 UNIDENTIFIED: -- they don't pay  
6 attention to them, you know? If Japan leads it,  
7 then it may not go toward quotas, but we're going to  
8 have to be ready, and that's what I'd do at this  
9 point. Because otherwise we're going to be five  
10 years in preparation and spending millions of  
11 dollars.

12 JOHN DUNNIGAN: Let me break in here,  
13 because if it's okay, Bob and Joe, because I have a  
14 bit to say about this one. One of the things that  
15 I've learned in the two months that I've been the  
16 Director of the Office of Sustainable Fisheries is  
17 that our BAYS data is awful. And I've talked to  
18 enough people, both within the agency and outside  
19 the agency, to recognize that we just -- we don't  
20 have anywhere near a handle on the amount of BAYS  
21 species that are being caught and landed by American  
22 fishermen.

23 And so I am committed to doing  
24 something to make that work better, and will be

1       devoting my time and the resources of our office to  
2       finding a new approach to deal with this.

3               We're probably not going to be able  
4       to make any major new initiatives in this area  
5       during 2002. It's April to something, and you know,  
6       we're just too far along. We're probably going to  
7       have to continue working with the LPS through this  
8       year. But we are going to start working now to come  
9       up with something that will work for 2003. And in  
10      my mind, it ought to be state based. I would not  
11      say that the states have opted out of wanting to do  
12      this. I don't know that we've approached them in  
13      the right way.

14             I have already gone to the Gulf  
15      States Marine Fisheries Commission and met with the  
16      Gulf States directors and talked to them about the  
17      problem. And they basically were very sympathetic  
18      and said to me the same thing I just said to you.  
19      We're a little bit too late to try to deal with this  
20      in the realm of 2002. But you know, let's really  
21      talk about what to do about 2003.

22             The other thing that I talked to them  
23      about, I asked them -- and I will ask the Atlantic  
24      directors to do the same -- to sit back and think

1       about what kinds of historical or even anecdotal  
2       data sets that they might be able to put their hands  
3       on that we could use to reconstruct some historical  
4       perspectives on what our landings levels have been.

5               I don't know whether, for example,  
6       our yellowfin landings are four to five times higher  
7       than the reported or rather the estimated landings  
8       we have been coming up with. That's the number that  
9       a lot of the advisors at the ICCAT meeting were  
10      throwing at me.

11             I will tell you that the preliminary  
12      information that is coming into the Gulf charter  
13      boat data system for this year is showing estimates  
14      of recreational landings or charter boat headboat  
15      landings of yellowfin that are three to four times  
16      larger than they had been in previous years under  
17      the old system.

18             So, it may be that now that they've  
19      implemented during this year their new system, that  
20      we're beginning to get a more accurate picture and  
21      that that would tend to validate a lot of the  
22      information that advisors have been giving us about  
23      the amount that we've been underestimating these  
24      landings.

1                   So, we do need to make a much  
2                   stronger effort in this area. It's one of the  
3                   impressions I've gathered over the last three days  
4                   is to think of how often around this table we've  
5                   talked about data issues in all of our fisheries.  
6                   And certainly from my experience over the last 11  
7                   years, working with the states, data was obviously a  
8                   major problem that everybody recognized and that's  
9                   why we got the ACCSP.

10                  I told Wayne Lee last week that we  
11                  will be integrating our Highly Migratory Species  
12                  databases fully with the Atlantic Coastal  
13                  Cooperative Statistics Program. We expect to be a  
14                  full partner in making that program successful. And  
15                  you know, they're dealing right now with the whole  
16                  question of how to deal with the charter and  
17                  headboat fisheries.

18                  They had a pilot program, they're  
19                  evaluating that, and during this year they'll be  
20                  making decisions for out years as to how the ACCSP  
21                  wants to deal with that segment of our fishery. And  
22                  when they make that decision, our HMS programs will  
23                  there fully with them.

24                  So, we will continue to move, and

1       frankly until we get a better feel on this, I don't  
2       know how our ICCAT positions are going to sort out.  
3       But my view in presenting information and talking to  
4       the ICCAT commissioners would be that we are in no  
5       position to begin talking about what an appropriate  
6       allocation based on historical use of yellowfin tuna  
7       is for American fishermen.

8               We cannot rely on the historical data  
9       sets that we have right now. We just don't have  
10      confidence that those are accurate. That has a lot  
11      of implications. It has a lot of implications for  
12      stock assessments and whether or not we're  
13      accurately assessing the status of these resources.  
14      And you know, if your landings are off by factors of  
15      three or four or five, you know, that can mean  
16      really good news or that can mean really bad news.  
17      You've got to have some really smart people think  
18      that one through.

19             But certainly just in terms of  
20      talking about -- you know, if in 2003 ICCAT decides  
21      -- the Europeans decide they want to move to country  
22      quotas for yellowfin, the United States is in no  
23      position certainly in April of 2002 to step forward  
24      and give any indication of how we think that ought

1 to appropriately be done for our fisheries.

2 So, that's sort of where I am on  
3 this. I recognize this is a major problem. I don't  
4 know there's much more that we can tell you about  
5 it. During 2002, we're not going to be able to make  
6 much progress, but we are going to be working  
7 aggressively during 2002 so that we will be making  
8 progress in 2003, and there is this early  
9 indication, based on preliminary data in the Gulf  
10 charter and headboat data set that there is some  
11 validation of what we've been hearing from the  
12 advisors.

13 MODERATOR CHRISTOPHER ROGERS (No  
14 microphone): You have two minutes before you are  
15 officially released (inaudible).

16 UNIDENTIFIED: I'll try to take my 25  
17 percent and no more. Jack, on the point that you  
18 made about the landings, after that meeting in New  
19 Orleans when we talked about yellowfin statistics  
20 back in '96, I engaged in an informal survey with  
21 other states and we came up with some numbers, and  
22 the lowest number we came up with for recreational  
23 landings was in the 20,000 metric ton neighborhood.  
24 And some of us could extrapolate up to 35 or 40,000

1 metric tons, so I'd say the four to five  
2 understatement is probably understated by a factor  
3 of two. It's probably more like six to ten times  
4 understated.

5 But anyway, the point that I want to  
6 make that's more important than that is that the  
7 Nelson scenario can come true at any year, any given  
8 year. And the most important thing about that  
9 scenario is not to have a good reporting system for  
10 2003, but to restate the landings for the prior  
11 decade or so, as best we can. So, I want to re-  
12 emphasize that doing some statistical backtracking  
13 to re-report to ICCAT, you know, revised numbers  
14 that more accurately reflect our fisheries is  
15 extremely important. Otherwise, we're going to --  
16 even if you do a better reporting job in 2003, we're  
17 going to be in exactly the same boat and it's not  
18 going to be of any help. In fact, that could be  
19 detrimental because it would say our landings have  
20 increased dramatically.

21 UNIDENTIFIED: Yes. Very briefly,  
22 one caution. I think -- I don't know whether you've  
23 mentioned it, Chris, or Nelson mentioned it. By the  
24 way, you're absolutely right, the extrapolation,



1       it's utilized in other statistical analyses, MRFSS  
2       surveys, etcetera. You know, on dockside. So,  
3       there's some validity to that. Whether you can get  
4       away with it in ICCAT or not, you guys know better  
5       than I.

6                       But one thing -- whatever we do,  
7       let's not play games with the statistics like the  
8       '92, '93 spikes on the purse seine fishery on  
9       yellowfin. Now, you know, certainly in our  
10      industry, and those who have been aware of this,  
11      that's an abnormal spike that was directed for those  
12      years because there was concern of a yellowfin  
13      allocation from ICCAT at that time. Let's do it,  
14      you know, with some integrity and a respectful  
15      analysis that we can all work with and not feel that  
16      any games are being played politically for one user  
17      group vis-a-vis another.

18                      So, that's just a caution. And '92,  
19      '93, I mean, I don't have them in front of me. I've  
20      seen them many, many times. The spike for the purse  
21      seiners was like a joke they were allegedly getting  
22      rid of them in Puerto Rico, just to build up a  
23      yellowfin history.

24                      MODERATOR CHRISTOPHER ROGERS:

1 (Inaudible.)

2 UNIDENTIFIED: Oh, well. I just want  
3 to tell Jack that --

4 MODERATOR CHRISTOPHER ROGERS:

5 (Inaudible.)

6 UNIDENTIFIED: Well, let him go  
7 first.

8 UNIDENTIFIED: (Inaudible.)

9 UNIDENTIFIED: What Jack said, but  
10 Jack, it seems to me you ought to be able to start  
11 right away looking for old records that you can use,  
12 rather -- I mean, that's not what we're talking  
13 about with the commissions. We're talking about  
14 sending people out to look for old records, finding  
15 a barn somewhere and all that kind of stuff. So, I  
16 hope you can do that right away before the barn  
17 burns down.

18 JOHN DUNNIGAN: You know, I've got so  
19 many people to do all the rules and everything else  
20 that we talked about.

21 UNIDENTIFIED: Ask Sea Grant to hunt  
22 it up. Their agents get with the fishermen and they  
23 know how to do it. I mean, they talk to them every  
24 week on the dock and they've got their confidence.

1       And what -- you know, we're sitting here saying if  
2       ICCAT declares them overfished, we've got a problem.  
3       And I'm not -- I know it's going to happen sooner or  
4       later, but we've been hearing fully utilized for so  
5       many years now it sounds like it's stable anyhow.

6               But we have a fishery management plan  
7       for yellowfin tuna, don't we? It's part of the --  
8       and what do we say is overfishing and overfished?  
9       Is it the same criteria as if the ICCAT would use?

10              MODERATOR CHRISTOPHER ROGERS:

11       Basically we've deferred to the international stock  
12       -- we're not going to do an independent yellowfin  
13       tuna stock assessment and declare yellowfin  
14       overfished, so to speak, if it's not in concert with  
15       the ICCAT. We basically follow the ICCAT process.

16              UNIDENTIFIED: Well, most of our  
17       fisheries, not all of them, but we've set something  
18       below biomass at MSY as overfished, the minimum  
19       stock size. And ICCAT should say it's overfished if  
20       it's one ounce below MSY biomass. We may be 80  
21       percent.

22              So, if they say it's one ounce below  
23       the biomass at MSY, and according to our criteria --  
24       I'm just speculating, because I don't remember what

1 the numbers are. Are we bound by what ICCAT says?

2 MODERATOR CHRISTOPHER ROGERS: In a  
3 sense, we would be basing our determination that  
4 we're required to do under Magnuson Act on the best  
5 available science, which we as party to the ICCAT  
6 stock assessment would determine that to be the best  
7 available science. Certainly if we felt that we  
8 were below the minimum biomass threshold that we set  
9 in our plan and ICCAT was unwilling to use the term  
10 overfished for whatever reason, then you know, we  
11 might have to diverge a little bit there. But we  
12 would certainly both be pointing to the same  
13 documented stock assessment.

14 UNIDENTIFIED: I understand that, but  
15 in theory a number could come up that ICCAT would  
16 say is overfished and the U.S. criteria using that  
17 same number, it's not overfished. But what happens  
18 then? We're just led by ICCAT and we have to treat  
19 it as overfished?

20 MODERATOR CHRISTOPHER ROGERS: I  
21 think you probably would be more likely to be the  
22 reverse, that we would be calling it overfished and  
23 ICCAT might not want to use that terminology.

24 UNIDENTIFIED: (Inaudible) tuna on

1       your radar?

2                   MODERATOR CHRISTOPHER ROGERS:  No,  
3       they're not.  Under the Magnuson Act, tuna species  
4       are defined, and that includes bluefin plus BAYS.  
5       Blackfin tuna are not under the definition of tuna  
6       species, so therefore they're not automatically  
7       included in the management unit, so to speak, for  
8       which the Secretary has responsibility or authority  
9       under Magnuson.

10                   Arguably, if ICCAT was to regulate a  
11       blackfin tuna in some way, with a minimum size  
12       recommendation or a quota or what have you, then we  
13       would be forced to implement a regulation under the  
14       authority of Atlantic Tuna Conventions Act.  But  
15       currently no ICCAT recommendation exists and the  
16       Council certainly would be able to avail themselves  
17       of management authority if they so desired for  
18       blackfin tuna.

19                   UNIDENTIFIED:  Well, would you be  
20       interested in doing it like you do for some of the  
21       sharks that aren't on your list, but you're doing it  
22       for the Councils?  Or would that -- is that  
23       impossible because you're too jammed up (inaudible).

24                   MODERATOR CHRISTOPHER ROGERS:  Well,

1        what management measures do you envision as  
2        necessary? Just including them in permitting,  
3        recordkeeping, reporting or catch limits or --

4                    UNIDENTIFIED: I don't know, but  
5        there's a developing blackfin tuna fishery that  
6        sounds pretty big, but it may just be fishermen's  
7        B.S. in the Gulf, and I don't know if we just want  
8        to get interested in it or not. But if we do,  
9        should we call you first?

10                   MODERATOR CHRISTOPHER ROGERS: Well,  
11        the Gulf Council can certainly take up the matter  
12        and we would certainly work together, but currently  
13        absent an ICCAT recommendation, there's no authority  
14        under Magnuson for us to take action at the  
15        Secretarial level. So, the Council is certainly  
16        free to do so and has the authority to do so.

---

17  
18                   MISCELLANEOUS ISSUES

19                   MODERATOR CHRISTOPHER ROGERS: Okay.  
20        In closing, since we had one more topic called  
21        Miscellaneous Issues, I just wanted to alert. Some  
22        folks had asked what is this thing about charter  
23        headboat issues and angling category permit? We  
24        actually had been working on a proposed rule that

1 followed from last year's discussion on some of the  
2 gear and permitting intricacies in terms of permits  
3 in different categories and when it applied. And  
4 one of the issues we had discussed at last year's  
5 meeting was the fact that it was not clear in all  
6 instances when a charter -- a vessel issued a  
7 charter headboat permit was operating quote in the  
8 recreational fishery or in the commercial fishery,  
9 and under what conditions the fish could be sold,  
10 under what condition recreational catch limits would  
11 apply. So, this rulemaking was intended to address  
12 some of those concerns.

13 It is planned to be released shortly,  
14 and in fact, this was the one that was picked for  
15 the E-Comments project. And it does address the  
16 issue of the angling category permits. Some of the  
17 concerns we had expressed -- that had been expressed  
18 about migrating the angling category in the same  
19 fashion as we had done for the charter headboat  
20 permit from an Atlantic tunas angling category  
21 permit to an Atlantic HMS angling category permit.

22 So, look for that rule when we make  
23 the big E-Comments announcement, hopefully in a  
24 week, certainly less than two weeks. Bob Pride.

1                   ROBERT PRIDE: With respect to the  
2                   HMS permit, we've been having discussions at the  
3                   Mid-Atlantic Council about permitting and how  
4                   helpful it would be in recreational fisheries for  
5                   the species that we manage. And if there's any way  
6                   to make that an EEZ or a federal permit for  
7                   recreational fisheries, period, that would be very  
8                   useful to us.

9                   MODERATOR CHRISTOPHER ROGERS: Well,  
10                  in fact, some of the work we were doing with our  
11                  colleagues in Office of Science and Technology about  
12                  revamping, revising, and revitalizing the large  
13                  pelagic survey, some of the issues that were  
14                  discussed was it needs to be more than a large  
15                  pelagic survey. It needs to be a better version of  
16                  collecting information about many species taken in  
17                  federal waters. And in fact, that's what they had  
18                  asked me, as to whether our Division could implement  
19                  some sort of federal waters permit.

20                  I said well, there's jurisdictional  
21                  issues within the agency in that our responsibility  
22                  is to manage Atlantic Highly Migratory Species. It  
23                  would have to be a broader issue, working in  
24                  conjunction with the Councils that would be



1 involved, as to whether some sort of federal waters  
2 recreational fishing permit could be implemented.

3 But certainly it's possible. I think  
4 we've demonstrated through the Web site that we've  
5 used for the tuna permits that it can be accessible  
6 in real time to people and certainly a lot of  
7 reporting and information transfer functions can  
8 follow from that through the Web site. Joe.

9 JOSEPH MCBRIDE: Very quickly, before  
10 we leave. When you do that, if you're considering  
11 doing that, it becomes a reality. Think of  
12 logbooks, mandated logbooks, at least for those that  
13 are permitted. I mean, this information -- if it's  
14 followed through and it's reasonable accurate is a  
15 simple way for you to get a lot of good information  
16 without -- save the money on the phone calls and all  
17 the other nonsense.

18 MODERATOR CHRISTOPHER ROGERS: Bob  
19 Hueter did want the last word, I believe.

20 ROBERT HUETER: Yeah, because I never  
21 get it at home. Actually, I'm kind of glad the most  
22 people have left, in case this comes out wrong, then  
23 I don't have too many witnesses.

24 I wanted to make a sort of a final

1 philosophical observation of the last few days. I  
2 think you guys know how much I respect you and how  
3 much I respect the magnitude of your mission. I  
4 think that the last few days I have learned a lot,  
5 as I always do at these meetings, and there's been a  
6 lot of good information passed around. And your  
7 staff has performed wonderfully.

8 One thing, though, that I have  
9 observed that seems to run through it is when your  
10 staff is asked for a vision of their area, their  
11 program, that they quite frankly have not done very  
12 well in answering that kind of question.

13 And this bothers me. And my only  
14 answer to this is -- the reason for this is twofold.  
15 One is that for some reason they're not being  
16 forthcoming. And I've never been much of a  
17 conspiracy guy, so I don't accept that.

18 The other is that they just don't --  
19 there's not much thinking going on at that level.  
20 And that truly concerns me because of -- I want to  
21 look forward to the day when we are talking about  
22 targets and strategic -- you know, objectives.

23 You have goals. I know that. The  
24 goal is rebuilding sustainable fisheries, reducing

1 bycatch. Those are goals. But you guys are still -  
2 - you still seem to be locked and forced into that  
3 box of what I call adjustments and response as  
4 opposed to -- you know, you're sort of -- your  
5 vision and your targets -- and this is something  
6 we've talked about in stock assessment that in  
7 setting rebuilding plans and things like that, that  
8 targets is something that often is not even decided  
9 on, that wanting -- you know.

10 So, I don't know what I'm asking of  
11 you in response. It's just an observation. It's a  
12 rather -- I'm sure it's a rather naive one. But it  
13 just runs through the whole thing. And I'm really  
14 hopeful that under Bill that this is going to change  
15 soon, and at our next AP meeting we are talking  
16 about the vision for these fisheries as opposed to  
17 just the adjustments that we need to make, you know,  
18 based on the previous year's activities. Thanks.

19 MODERATOR CHRISTOPHER ROGERS: Well,  
20 that certainly is a point of frustration for folks  
21 within the Division. Every once in a while, we do  
22 sort of get away for a day and say well, leave the  
23 phones ringing and leave the faxes on the floor and  
24 run over to one of the other buildings in NOAA, or

1       even get a hotel room. We've done in the past,  
2       downtown D.C., if we can get a good deal on one, and  
3       have a retreat.

4               And that's usually the first thing on  
5       everybody's mind is that we don't seem -- as a  
6       Division don't seem to have the time -- not --  
7       clearly we have the inclination, we have the  
8       capability within the staff. But we just don't seem  
9       to have the time to do that long-term planning, that  
10      strategic planning, those long-term visions, because  
11      we are so often in reactionary mode, whether it's a  
12      lawsuit or a new -- legislative requirements. You  
13      know, sometimes we'll find out oh, there's a new  
14      report to Congress that's required because of some  
15      appropriations bill, and we just found out about it  
16      and now we're 30 days overdue with it, those kinds  
17      of things.

18             So, we're often in a reactionary mode  
19      and it is a sort of frustration, and I'm hopeful  
20      that someday we can turn that around and do some  
21      more of that long-term planning, that vision, and  
22      get it adequately expressed in our SAFE reports.

23             We've sort of made an attempt last  
24      year in the SAFE Report with inventing that outlook

1 section at the end, but again, as you say, that too  
2 often there's a short-term outlook, and how are we  
3 going to fix the problems that we face or that are  
4 still lingering from last year.

5 So, I hope that folks don't have the  
6 impression that we don't have thinkers within the  
7 Division and that we don't have people who long to  
8 do that kind of stuff, some long-term planning, and  
9 have that vision, and have that vision expressed in  
10 reality over the course of several years in the  
11 fisheries management process.

12 That is the number one complaint, so  
13 to speak, expressed when we do have these chances to  
14 get away, is that we're always reactionary. Things  
15 get dropped on us, either from external sources or  
16 from above within the agency. And being always in a  
17 reactionary mode, we can't be in a proactive mode.

18 So, I do understand your frustration.  
19 I think your comment is -- or observation is valid.  
20 But I really hope that you don't have the impression  
21 that we don't have the capacity or the desire to  
22 head down that path.

23 ROBERT HUETER: No, it's not where  
24 I'm coming from at all, and again I reiterate my

1       respect for you guys, your talents as well as the  
2       magnitude of the mission. And I understand that as  
3       a government agency you are first and foremost  
4       required to respond. And that's the difference  
5       between -- you know, your side of the table and  
6       mine, that -- I'm thinking about my own case, that  
7       I've certainly been in the same kind of reactionary  
8       modes in the past and the way I eventually worked my  
9       way out of that was to hire good people under me, so  
10      I could do the big thing.

11               I know you guys are capable of it. I  
12      know you want to do that. And I just -- whatever I  
13      can do to help to lobby at whatever level, all of us  
14      here in this panel, so that there are talented  
15      people that are given the time to think through  
16      these things and incorporate those into the -- you  
17      know, the strategic plan for fisheries for this  
18      country.

19               MODERATOR CHRISTOPHER ROGERS: We  
20      certainly appreciate all those who were able to hang  
21      out to the bitter end here. I think this is a  
22      question that is not best directed at the folks who  
23      remained, but I'm sort of thinking that in the  
24      future, given that this has happened -- played out

1       this way for the last two years, that we ought to  
2       schedule the last day to end about 1 o'clock and  
3       work through lunch and just let people be on their  
4       way.

5                   UNIDENTIFIED: (Inaudible.)

6                   MODERATOR CHRISTOPHER ROGERS:

7       Doesn't matter?

8                   UNIDENTIFIED: (Inaudible.)

9                   MODERATOR CHRISTOPHER ROGERS: Better  
10       to go a full day? Had a comment -- Ron Rinaldo in  
11       the back?

12                   RON RINALDO: No.

13                   MODERATOR CHRISTOPHER ROGERS: Just  
14       saying hi? Waving that hand. Okay. Well, thank  
15       you all for coming. Thank you for staying. And we  
16       hope to maybe build on this E-Comments platform to  
17       have a better way of communicating between the  
18       meetings with folks and get those materials out  
19       faster and get some feedback on the agenda prior to  
20       next year's meeting. Or in fact if we have  
21       inclination and funding, maybe another meeting  
22       before the end of the calendar year.

23                   WHEREUPON:

24                   THE MEETING WAS CONCLUDED.

C E R T I F I C A T E

COMMONWEALTH OF MASSACHUSETTS

COUNTY OF NORFOLK

I, PAUL T. WALLACE, a Professional Court Reporter and Notary Public in and for the Commonwealth of Massachusetts, do hereby certify that the foregoing transcript represents a complete, true and accurate transcription of the audiographic tape taken in the above entitled matter to the best of my knowledge, skill and ability.

In witness whereof, I have set my hand and Notary Seal this 12th, day of July, 2002.

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PAUL T. WALLACE. Notary Public  
My Commission Expires  
October 3, 2008

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